

No. 2445

United States
Circuit Court of Appeals

For the Ninth Circuit.

NORTH ALASKA SALMON COMPANY, a Corporation,

Appellant,

vs.

PEDER LARSEN,

Appellee.

Apostles.

Upon Appeal from the United States District Court
for the Northern District of California,
First Division.

Filed

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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UNITED STATES OF AMERICA.

District Court of the United States, Northern District of California.

CLERK'S OFFICE.

No. 15,354.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON CO. (a Corporation),
Libelee.

Praeceptum for Apostles on Appeal.

To the Clerk of Said Court:

Sir: Libelee herein having appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the final decree of this Court entered herein, you are hereby requested to prepare and certify the Apostles on Appeal, to be filed in said Appellate Court on or before the 20th day of June, 1914, said Apostles on Appeal to be prepared in accordance with Rule 4 of the "Rules in Admiralty" of said Appellate Court, and to include in their proper order the following papers and documents, to wit:

1. All the matters prescribed and mentioned in Admiralty Rule No. 4, Sec. 1 of said Appellate Court.
[1*]

2. The Pleadings.

3. All the testimony adduced at the hearing before said District Court, including deposition on file and exhibit.

*Page-number appearing at foot of page of original certified Record.

4. Opinion of the District Court.
5. Final Decree.
6. Notice of Appeal and Bond on Appeal.
7. Assignment of Errors.

Dated May 21, 1914.

D. FREIDENRICH,
Attorney for Libelee.

[Endorsed]: Filed May 22, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [2]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 15,354.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON COMPANY, a Cor-
poration,

Libelee.

Statement of Clerk—District Court.

PARTIES.

LIBELANT: Peder Larsen.

RESPONDENT: North Alaska Salmon Company,
a corporation. [3]

PROCTORS

for

LIBELANT: F. R. Wall, Esquire, San Francisco,
California.

RESPONDENT: D. Freidenrich, Esquire, San
Francisco, California.

PROCEEDINGS.

1912.

December 21. Filed verified Libel for Damages for breach of Contract of Good Treatment. Issued Citation for the appearance of Respondent, etc., and which said Citation was afterwards, on the 26th day of December, 1912, returned and filed with Return of the United States Marshal endorsed thereon as follows:

“I have served this writ personally by copy on North Alaska Salmon Co. (a corporation), by handing to, and leaving with R. E. Cotter, Secretary of North Alaska Salmon Company (a corporation), a copy thereof, personally at the City and County of San Francisco, in said District this 23d day of December, A. D. 1912.

C. T. ELLIOTT,

U. S. Marshal.

By M. J. Fitzgerald,
Office Deputy Marshal.” [4]

1913.

January 7. Filed Answer of Respondent.
May 28. Filed Deposition of Sigurd Andersen taken before Francis Krull, United States Commissioner.

1914.

March 12. The above-entitled case this day came on for trial in the District

Court of the United States, for the Northern District of California, before the Honorable M. T. Dooling, Judge, and after hearing, etc., the case was argued and submitted.

- | | | |
|-------|-----|---|
| April | 30. | Filed Opinion in Favor of Libelant. |
| May | 2. | Filed Final Decree. |
| May | 12. | Filed Notice of Appeal. |
| May | 19. | Filed Bond on Appeal and Superse-
deas in the aggregate sum of
\$1,250.00, with Fidelity and De-
posit Company of Maryland as
Surety. |
| May | 20. | Filed one volume of testimony taken
in open court. |
| May | 22. | Filed Assignment of Errors. [5] |

*In the United States District Court, in and for the
Northern District of California, First Division.*

IN ADMIRALTY—No. —.

Libel for Damages for Breach of Contract of Good
Treatment, \$1,200.00.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON COMPANY, a Cor-
poration,

Libelee.

Libel.

To the Honorable United States District Court, in
and for the Northern District of California:

The Libel of Peder Larsen, late a seaman on board of that certain ship or vessel known as and called the "Olympic," against the North Alaska Salmon Company, a corporation, owner of said vessel, in a cause of libel for breach of contract of good treatment, civil and maritime, alleges and articulately propounds as follows:

1. That as this libelant is informed and believes and therefore alleges the truth to be:

At all of the times hereinafter mentioned the libelee herein, North Alaska Salmon Company was, ever since has been, and still is, a corporation organized and existing under and by virtue of the laws of the State of California, with its principal place of business at San Francisco in said State; that at all of said times said libelee was, ever since has been, [6] and still is, the owner of that certain ship or vessel known as and called the "Olympic"; that at all of said times said libelee was the owner of and operated a salmon cannery at Locanock, in the District of Alaska.

2. That on or about the 17th day of April, 1912, at San Francisco, California, this libelant, shipped as a seaman on board of said "Olympic" for a voyage from said San Francisco to said libelee's salmon cannery at Locanock, Alaska, and return to said San Francisco, after the end in Alaska of the salmon fishing season of 1912; that on or about said 17th day of April, 1912, said libelant and said libelee entered

into articles of agreement by the terms of which said libelant agreed to serve said libelee in Alaskan waters during said salmon season of 1912, and that during the time said libelant should remain in the employ of said libelee during said season that said libelant was to work and labor for said libelee in the capacity of seaman, fisherman, beachman, and trapman, and also to work on boats, lighters and steamers at and about libelee's said cannery during said salmon fishing season; that by the terms of said articles of agreement, it was further agreed that said libelant should, while serving said libelee under said articles of agreement, receive medical and surgical attendance and medical and surgical necessities free of charge.

3. That on or about the 12th day of July, 1912, libelant's left leg was badly injured at the knee, without fault on libelant's part, so that libelant became sick, lame, sore and unfitted to work; that at the time said libelant was injured as aforesaid he was in the service of said libelee [7] under the aforesaid articles of agreement, and was at work for said libelee under said articles of agreement on board of a lighter belonging to said libelee, said lighter then being afloat in the waters of Brown's River, alongside of the fish dock of said libelee at said Locanock.

4. That after said libelant was injured as aforesaid, said libelee failed and neglected to furnish said libelant with proper medical and surgical care and attention, and compelled said libelant, after he was injured as aforesaid, to work on board of said "Olympic"; that said libelant did not and could not receive proper medical and surgical care and atten-

tion at said Locanock and that said libelee could and should have sent said libelant to Naknek or to Koggiung or to Dutch Harbor, at either of which places, as libelant is informed and believes, and therefore alleges the truth to be, libelant could have received proper medical and surgical care and attention; that on or about the 24th day of August, 1912, while libelant was sick, lame and sore as aforesaid, and growing worse, libelant requested libelee's superintendent at said Locanock to send libelant to said Naknek or to said Koggiung for treatment, but that said superintendent failed and neglected to send said libelant to either of said places; that on or about October 11, 1912, said vessel "Olympic" returned to said San Francisco, with this libelant serving on board of her under the aforesaid shipment, and said libelant was, on the 14th day of October, discharged from said vessel and from the services of said libelee; that at the time said libelant was discharged from said vessel as aforesaid, [8] said libelant was still sick, lame and sore, because of said injuries received as aforesaid, and said libelant was, at the time of said discharge, still in need of medical and surgical care and attention because of said injuries, and said libelant has, since said discharge, been compelled to incur and has incurred indebtedness in the sum of \$125.00, for medical and surgical care and attention, and will have to incur further expenses for said care and attention because of said injuries, in not less than the sum of \$15.00; that said libelant has been unable to do any work since said 14th day of October, and will not, as libelant is informed and believes, be able to do any work of any kind for a further period of two

months, and that it will be a further period of six months or a year before libelant will recover his full earning capacity.

5. That by reason of the premises libelant has been damaged in the sum of \$1,200.00, which sum he asks this Court to award to him.

6. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

WHEREFORE, libelant prays that a monition, according to the practices of this Court, may issue against the said libelee, citing it to appear and answer on oath the matters aforesaid; and that this Honorable Court would be pleased to decree the payment of said \$1,200.00, to said libelant, with interest and costs, and that he may have such other and further relief in the premises as in law and justice he may be entitled to receive.

F. R. WALL,

Proctor for Libelant. [9]

State of California,

City and County of San Francisco,—ss.

Peder Larsen, being first sworn, deposes and says: That he is the person named as libelant in the above and foregoing libel; that he has read said libel and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on his information or belief, and as to such matters that he believes it to be true.

PEDER LARSEN.

Subscribed and sworn to before me this 20th day of December, 1912.

[Seal]

W. A. BRACE,
Notary Public, in and for the City and County of
San Francisco, State of California.

[Endorsed]: Filed Dec. 21, 1912. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [10]

*In the United States District Court, in and for the
Northern District of California, First Division.*

IN ADMIRALTY.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON COMPANY, a Cor-
poration,

Libelee.

Answer of Libelee to Libel.

Now comes Libelee, North Alaska Salmon Company, a corporation, and for answer to the libel on file herein, admits, denies and avers as follows:

Admits that on or about the 17th day of April, 1912, libelant and libelee entered into articles of agreement by the terms of which libelant agreed to serve libelee in Alaskan waters during the salmon season of 1912, and that during the time libelant should remain in the employ of libelee, during said season, that libelant was to work and labor for libelee in the capacity of seaman, fisherman, beachman and trapman, and also to work on boats, lighters and

steamers at and about libelee's cannery at Locanock, Alaska.

Denies that libelant shipped on board the ship "Olympic" for a voyage from San Francisco to libelee's cannery at Locanock, Alaska, in the capacity of a seaman or in any [11] capacity other than as specified in the articles of agreement entered into between libelant and libelee on or about April 17th, 1912.

Libelee denies that by the terms of the articles of agreement, entered into between libelant and libelee on or about the 17th day of April, 1912, or by the terms of any articles of agreement between libelant and libelee, it was agreed that libelant should, while serving libelee under said articles of agreement, or under any articles of agreement whatsoever, receive free of charge, or otherwise, or at all, medical and surgical attendance or medical or surgical attendance and medical and surgical necessities or medical or surgical necessities.

Denies, on its information or belief, that on or about the 12th day of July, 1912, or at any other time, libelant's left leg was injured or badly injured at the knee; denies that such injuries, if any, were without fault on his part; denies on information and belief, that libelant became sick, lame, sore, or unfitted to work; denies on its information and belief that libelant was injured while at work for libelee on board of the lighter belonging to the libelee alongside of the fish dock of libelee at Locanock.

Denies that libelee failed or neglected to furnish libelant with proper medical and surgical care and attention or with proper medical or surgical care or

attention. Denies that libelee compelled libelant after he was injured to work on board of the "Olympic." Denies that libelant did not or could not receive proper medical and surgical care and attention or proper medical or surgical care or attention at Locanock. Denies that libelee should have sent libelee to Naknek or to [12] Koggiung, or to Dutch Harbor. Denies that libelant could have received better medical or surgical care or attention at either of said places. Denies that on or about the 24th day of August, 1912, or at any other time, libelant requested libelee's superintendent at Locanock to send libelant to Naknek or to Koggiung for treatment. Denies upon its information and belief that libelant was at or about said time, sick, lame or sore, or was growing worse.

Denies that libelant performed any service on board the "Olympic" upon her return to San Francisco.

Denies that on or about October 14th, 1912, when libelant was discharged from the service of libelee, he was sick, lame or sore because of injuries received by him while in the service of libelee.

Denies upon its information and belief that libelant has since said discharge been compelled to incur or has incurred indebtedness in the sum of \$125.00, or any other sum, for medical or surgical care or attention, or will have to incur further expenses for such care or attention because of said or any injuries in not less than the sum of \$15.00, or any other sum.

Denies upon its information and belief that libelant has been unable to do any work since the 14th day of October, 1912, or will not be able to do any work

for the further period of two months or any other time, and denies upon its information and belief, that it will be a further period, of six months, or a year, or any other time, before libelant will recover his full earning capacity. Denies that by reason of the premises libelant has been damaged in the sum of twelve hundred dollars [13] (\$1200.00), or in any other sum.

Denies upon its information and belief that the cause of action set up in the libel is within the admiralty, or maritime jurisdiction of the United States or of this Honorable Court.

WHEREFORE, libelee prays to be hence dismissed with its costs.

D. FREIDENRICH,
Attorney for Libelee. [14]

State of California,
City and County of San Francisco,—ss.

R. E. Cotter, being first duly sworn, deposes and says: That he is the Secretary of the corporation, libelee, herein; that he has read the foregoing answer to said libel and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated on his information and belief, and as to those matters he believes it to be true.

R. E. COTTER.

Subscribed and sworn to before me this 6th day of January, 1913.

[Seal] JAMES MASON,
Notary Public in and for the City and County of San Francisco, State of California.

Service of within Answer acknowledged this 6th day of January, 1913.

F. R. WALL,
Proctor for Libelant.

[Endorsed]: Filed Jan. 7, 1913. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [15]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Thursday, the 12th day of March, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable M. T. DOOLING, Judge.

No. 15,354.

PERDER LARSEN,
vs.

NORTHER ALASKA SALMON CO.

Minutes of the Trial, etc.

This cause this day came on for hearing, F. R. Wall, Esqr., appearing for libelant, and D. Freidenrich, Esqr., appearing for respondent. Mr. Wall stated the case and introduced in evidence the deposition of Sigurd Anderson, taken before a U. S. Commissioner, and called Layton Robinson, Claude C. Long, Peter Larsen, August Kohler, who were each duly sworn and examined on behalf of libelant, and rested. Mr. Freidenrich called Max Luttich, Alexander Young, C. P. Hale, Thomas H. Evans, who were each duly sworn and examined on behalf of re-

spondent, and rested.

Mr. Wall recalled Perder Larsen, who was further examined in rebuttal.

The cause was then argued by respective counsel, and by the Court ordered that the cause be, and the same is hereby submitted to the Court for decision.
[16]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

Before Hon. M. T. DOOLING, Judge.

No. 15,354.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON CO.

Libelee.

Testimony Taken in Open Court.

TUESDAY, MARCH 17, 1914.

APPEARANCES:

For the Libelant: F. R. WALL, Esq.,

For the Libelee: D. FREIDENRICH, Esq.

[Statement of Proctor for Libelant.]

Mr. WALL.—If your Honor please, this is a libel *in personam* for damages for breach of contract of good treatment of a seaman. The libel alleges the fact that the North Alaska Salmon Co., the libelee, was at the time, and ever since has been, a California corporation, and was the owner of the “Olympic,”

and [17] at all of the times in the libel mentioned was the owner of and operated a salmon cannery at Locanock, in the District of Alaska; that on the 17th day of April, 1912, at San Francisco, the libelant shipped as a seaman on board of the "Olympic" for a voyage from San Francisco to the libelee's salmon cannery at Locanock and return to San Francisco at the end of the season 1912, and entered into an agreement to serve the libelee, and that during that time the libelant should remain in the employ of the libelee, the libelant was to do certain work for the libelee during the fishing season and further, it was agreed that the libelant should, while serving said libelee, receive medical and surgical attendance and medical and surgical necessities free of charge; that about the 12th of July, 1912, libelant's left leg was badly injured at the knee, without his fault, so that he became unfitted for work; that at the time he was injured he was working for libelee on board of a lighter, the lighter then being afloat in the water of Brown's River, alongside of the fish dock of said libelee at said Locanock. That after said libelant was injured as aforesaid, said libelee failed and neglected to furnish said libelant with proper medical and surgical care and attention, and compelled said libelant, after he was injured as aforesaid, to work on board of said "Olympic," and that libelant could not and did not receive proper medical care; that he could have been sent to Naknek or to Koggiung, or to Dutch Harbor, at either of which places, as libelant is informed and believes and therefore alleges the truth to be, libelant could have received proper medical and surgical care and attention. That on

or about the 24th day of August, 1912, while libelant was sick, lame and sore as aforesaid, [18] and growing worse, libelant requested libelee's superintendent at said Locanock to send libelant to said Naknek or to said Koggiung for treatment, but that said superintendent failed and neglected to send said libelant to said places. That on or about October 11, 1912, the "Olympic" returned to San Francisco with this libelant serving on board under the aforesaid shipment, and libelant was on the 14th day of October discharged from the vessel and from the services of the libelee. That at the time he was discharged as aforesaid, he was still sick, lame and sore, and was at the time of his discharge still in need of medical care and attention because of these injuries, and he has since his discharge been compelled to incur and has incurred indebtedness in the sum of \$125 for medical care and attention, and will have to incur further expenses for said care and attention because of said injuries in not less than the sum of \$15. That said libelant has been unable to do any work since the 14th day of October, and will not, as libelant is informed and believes, be able to do any work of any kind for a further period of two months, and that it will be a further period of six months or a year before libelant will recover his full earning capacity. And that by reason of the premises he has been damaged in the sum of \$1,200.

The answer admits the corporate capacity of the libelee, and that it was the owner of the "Olympic," and that it operated the cannery at Locanock; that libelant entered into the terms of employment whereby he was to work and labor for libelee in the capacity

of seaman, fisherman, beachman and trapman, and also to work on boats, lighters and steamers at and about libelee's cannery at Locanock, Alaska.

As to the remainder of the answer, it is a specific denial of [19] the allegations of the libel.

I offer in evidence, on behalf of libelant, the deposition of Sigurd Anderson, taken in these proceedings.

I will call the Deputy Shipping Commissioner as the first witness. [20].

[Testimony of Layton Robinson, for Libelant.]

LAYTON ROBINSON, called for the libelant, sworn.

Mr. WALL.—Q. What is your official occupation?

A. Deputy United States Shipping Commissioner.

Q. Have you with you the shipping articles of the barkentine "Olympic" for the season of 1912?

A. Yes, sir.

Q. Where did you get those?

A. The United States Shipping Commissioner's Office.

Q. These are the articles, are they?

A. Yes, sir; the ship's articles.

Q. The ship's articles of the barkentine "Olympic"? A. The bark "Olympic."

Q. Made at what time?

A. The 13th day of April, these were opened; the crew signed on the 15th, to start work on the 16th.

Q. 1912? A. 1912.

Mr. WALL.—We offer these in evidence as Libelant's Exhibit 1. That is all.

Mr. FREIDENRICH.—No questions.

[Testimony of Claude C. Long, for Libelant.]

CLAUDE C. LONG, called for the libelant, sworn.

Mr. WALL.—Q. Give your name, your age, and occupation.

A. Claude C. Long. I am a physician. Age, 32.

Q. How long have you been a physician?

A. About 2½ years.

Q. I will ask you if you know the libelant here, Larsen. A. I do, yes, sir. [21]

Q. Has he ever been under your care and treatment? A. He has, yes, sir.

Q. What time did he come under your care and treatment?

A. It was about the middle of October, 1912.

Q. What did you find to be his condition at the time he came under your treatment?

A. He had a chronic injury, a chronic inflammation of the knee-joint.

Q. Which knee, do you remember?

A. I think it was the right knee, if I am not mistaken.

Q. No, it was the left. A. The left.

Q. What was the nature of that injury, Doctor?

A. Well, it had evidently been due to some traumatism or bruise to the knee-joint.

Q. What was the condition of the sac under the knee-cap—the synovial sac, I think it is called?

A. It is badly distended with fluid.

Q. What is the normal condition of that sac?

A. Well, it should not be palpable at all.

Q. What would be the effect of an injury of that

(Testimony of Claude C. Long.)

character, as to producing pain, or not—that condition of the leg as to producing pain or not?

A. Well, it would naturally be very painful; any old chronic inflamed joint is always painful when used.

Q. What did you do with that when he came under your treatment? A. I put him in bed.

Q. What else did you do?

A. I applied hot compresses for about a month or six weeks, I think, or something like that, [22] and absolute rest in bed, and massage of the knee-joint.

Q. State whether or not you gave him any electrical treatment.

A. Not at that time; I did afterwards.

Q. I want the whole of the treatment he received during the time he was under your care.

A. Well, he was in bed for, I guess, a month or six weeks with hot compresses continuously applied to his knee. Then I would massage his knee and apply the belladonna and stronium ointment. After the inflammation and swelling had gone down, I advised gentle exercise around the house with cold and hot douches, alternating with cold and hot water two or three times a day, with gentle movement of the joint, getting up a gradual bending of the joint, so he could get increased flexion. He received several electrical treatments at my office.

Q. Do you recall the last time you treated him?

A. I don't recall just the date. I left my office hurriedly this morning, but, approximately, I think it was the latter part of January, or the first of Feb-

(Testimony of Claude C. Long.)

ruary, or around there some place.

Q. Of 1913? A. 1913.

Q. From your experience as a medical man, and your treatment of this case, state what, in your opinion, would be the length of time required for the leg to have got into good condition, as far as a cure was possible, if the man had received proper medical care and attention from the first.

A. Well, any injury of the knee-joint is a complicated proposition to handle, but I should think that the minimum time would have been six weeks or two months. It is a safer proposition to say from two to three months.

Q. It would be a safe proposition to say three months, would it? A. It would, yes, sir. [23]

Q. Doctor, have you been paid for your services in attending the libellant? A. No, sir.

Q. What is the amount of your bill?

A. I think it is somewheres about \$86.

Q. Is there anything, aside from that, for medicines, or anything of that kind?

A. No, he furnished his own medicine.

Q. Is that charge a usual and reasonable charge?

A. Very reasonable for a case of that kind.

Cross-examination.

Mr. FREIDENRICH.—Q. When did you first see the libellant, Larsen?

A. It was about the middle of October, I think; about the 15th or 16th of October, 1912.

Q. Where did you see him?

A. He came to my office the first time.

Q. Where was your office located?

(Testimony of Claude C. Long.)

A. 3272 Mission Street, 29th and Mission.

Q. Did you make an examination of his knee at that time? A. I did, yes, sir.

Q. And you found it inflamed? A. Yes, sir.

Q. How long after that did you treat him?

A. Well, I sent him home. I put him to bed. I saw him the next day.

Q. You took him to your home?

A. I sent him to his home.

Q. And you kept him in bed? A. Yes, sir.

Q. How long did you treat him?

A. I treated him until about the latter part of January, or the first of February, 1913.

Q. And you have not treated him since?

A. No, sir.

Q. Have you examined his knee since that time?

A. Not since February, 1913. [24]

Q. How was his knee at that time?

A. It was in very good shape, considering the condition it was in when I first saw it.

The COURT.—Q. That is only relative, Doctor; how was it?

A. You mean as to his having any further trouble with it?

Q. Yes.

A. Well, as I said, he was able to get around on it, and able to walk and follow any ordinary occupation, but these joints frequently cause trouble when they have over-exertion or straining; as to his having any further trouble, I could not say. If he exerted it too much, or strained it, it probably would be painful again.

(Testimony of Claude C. Long.)

Mr. FREIDENRICH.—Q. At the time that you first examined the knee, was there any scar upon the knee?

A. There was no scar, no, that I remember.

Q. Nothing about the knee or the leg to indicate any injury, was there? A. Yes, sir.

Q. What was it?

A. Well, he had a very little movement—motion, the motion was limited to about 50 per cent, and his knee was swollen very much, and there was water in the membranes, in the sacs about the knee, indicating an old, chronic inflammation.

Q. A chronic inflammation?

A. Well, what I mean by “chronic” is an inflammation that had been running there several months.
[25]

[Testimony of Peter Larsen, in His Own Behalf.]

PETER LARSEN, the libelant, sworn.

Mr. WALL.—Q. Give your name, age and occupation.

A. My name is Pete Larsen; age, 44; seaman and fisherman.

Q. You are the libelant in this case, the person who is bringing this suit, are you not?

A. Yes, sir.

Q. Did you ship on the “Olympic” in April, 1912?

A. Yes, sir.

Q. I will show you the shipping articles of that vessel, opposite No. 135, and ask you if that is your signature. A. Yes, sir.

Q. You signed these shipping articles and agreement, did you? A. Yes, sir.

(Testimony of Peter Larsen.)

Q. From the time you signed the articles, did you go up to Alaska that season to work for the North Alaska Packing Company? A. Yes, sir.

Q. What did you do on the way up?

A. Worked on the ship.

Q. As what? A. As a seaman, steering.

Q. And after you got there what did you work at?

A. To start the ship; I was working on sails on board the ship.

Q. And then what?

A. When the ship was started, I worked on the boats until we commenced fishing.

Q. What time did you begin fishing?

A. In the latter part of June; I have forgotten the date we commenced fishing.

Q. How long did you fish?

A. I fished up to the tenth of July.

Q. Then what did you start doing?

A. I was called ashore to work ashore; we started in to discharge fish. There was so much fish brought in we had to call in some boats to help discharge the fish. [26]

Q. When you were discharging the fish, where would you be working? A. In a lighter.

Q. What sort of a vessel was that?

A. Just like a barge, but she had a railing around her, just like bulwarks around it, about five feet high.

Q. That barge, or lighter, what was it used for when you first began fishing?

A. She was used to haul fish up and down the river, to bring them to the fish wharf.

(Testimony of Peter Larsen.)

Q. Where would she go to get the fish?

A. In the beginning of the season, she went down below, away down toward Naknek, or they towed it up Brown's River to discharge at the fish wharf.

Q. And the boats would bring their fish to her and load them on board of her?

A. The boats discharged the fish on to this barge.

Q. And then she would be towed up to the cannery dock?

A. She would be towed up to the fish wharf, and we would discharge the fish there.

Q. State whether or not you were hurt at any time while you were up there.

A. I was hurt on the 12th of July.

Q. On the 12th of July? A. Yes, sir.

Q. Where were you at the time you were hurt?

A. I was in the lighter.

Q. Where was the lighter at that time?

A. She was lying alongside of the fish wharf.

Q. Was she afloat or not?

A. She was afloat, yes, sir.

Q. What were you doing on board of her?

A. I was throwing fish into a bucket, a fish bucket, into a tub that they hoist the [27] fish up in and dump it on the wharf.

Q. Where were you standing at the time?

A. I was standing on the lighter, toward the in-shore side of the lighter.

Q. What were you standing on? A. The fish.

Q. Go ahead and tell the Court just how you got hurt.

A. I was standing on the lighter and throwing fish

(Testimony of Peter Larsen.)

into this bucket, and when the bucket was full, they started to hoist it up, and I was standing on the in-shore side, and I had to make a quick move to get out of the way, because the bucket swung toward me, and I slipped and I sprained my knee.

Q. Which knee? A. The left.

Q. What was the condition of the knee before you sprained it at that time?

A. It was in good condition; there was nothing the matter with it before; if there had been anything the matter with it before, I would not have been working where I was.

Q. State whether or not you had any injury to this knee after this time, and until you brought this suit. A. No, sir.

Q. Can you tell the Court just how you sprained your knee?

A. Yes, sir. I was standing there throwing fish into the bucket and I had my back turned toward it, like, and was sideways, and as soon as the fish tub was full, they started to hoist it kind of quick, and without any warning, and before I had a chance to get away off she swung over toward me; I might have got hurt very badly, because she might have got me up against the side of the lighter, and so I made a quick move, and I slipped on the fish and that is how it happened; I twisted my knee.

Q. As I understand you, the bucket did not hit you?

A. No, sir, did not hit me, but she would have hit me if I did [28] not make that move to get out of the way.

(Testimony of Peter Larsen.)

Q. After you were hurt, state what you did and what was done with you or for you.

A. I was brought up on the machine that they transfer the fish up to the wharf on, and I got to the bunk-house and they telephoned for a doctor and the doctor came down and he said he didn't think there was much the matter with me, and he painted it with a little iodine—

Q. (Intg.) Just state that over again.

A. When the doctor came down he examined my knee and he said, "I don't think there is much the matter with you; you will be all right in the morning," he painted it with iodine and gave me a bottle of ointment and some pills to take. He did not come down again until the 15th.

Q. You were taken to the bunk-house?

A. Yes, sir.

Q. How far was that from the fish dock?

A. I guess it must be half a mile or three-quarters of a mile; I could not judge it just exactly.

Q. And you say you did not see him again until the 15th? A. No.

Q. Did he come to see you at that time?

A. On the 15th he came down to see me again, and he said, "Nothing is the matter with your knee at all"; he said, "The only thing the matter with you is you better get out and go to work." He turned around to the boss, Max, and said "Max, turn him to—."

Mr. WALL.—(Intg.) I would like to have all the witnesses withdraw on both sides. Now, proceed with your answer.

(Testimony of Peter Larsen.)

A. (Contg.) Max didn't say nothing. Max was smiling, and nodded to me, just as to say he knew better, I was not able to turn to, and so he didn't turn me to.

Q. He didn't turn you to?

A. No, not then.

Q. Then what did you do?

A. I didn't do nothing from then [29] until the first of August.

Q. You stayed in the bunk-house, then, until the first of August? A. Yes, sir.

Q. Then what did you do?

A. I went aboard the ship; I don't know whether it was the first or second, but when he sent the crew on board again Max came to me and he says, "Larsen, you better go on board the ship and work on the ship, or mending sails, do what you can; you'll get the average of the rest of the fish that was caught from the time you were laid up." So he sent me aboard the ship, and I worked sails from the first to the 23d or 24th, when I came ashore.

Q. Of August?

A. Yes, sir, and I came ashore to see the doctor again, my knee commenced to get so bad then I could hardly walk on it; I had to get a stick.

Q. How did you get a stick?

A. One of the boys made a stick for me, and he made a crutch for me, too, one of the sailors, one of the fishermen; so I went ashore, and I asked the bookkeeper to telephone to the doctor; he telephoned to the doctor, but the doctor said to the bookkeeper to sent me up to the hospital, or for me to come up to

(Testimony of Peter Larsen.)

the hospital; well, I had all I could do to get from the wharf up to the bunk-house, without walking three miles up to the hospital, up to Holliwell. So he came down to see me, and he said, "Let me see that knee of yours." So he examined it, and he said, "There is nothing at all the matter with your knee; there is nothing the matter with it at all." I said, "I don't think you are a doctor at all, if you can't see that there is something the matter with this knee of mine; you can't be much of a doctor." "Well," he says, "I have been practicing 12 or 15 years, and I ought to know something [30] about it." He said, "All that's the matter with you is that you are lazy; all you want is lots of work; there is nothing the matter with your knee that I can see, but you might be able to find it out down below," or something like that, "you might be able to find out more about it down below." Of course, I went down and spoke to the superintendent, and asked him if he would send me either—

Q. (Intg.) Who was the superintendent?

A. Hale, Chris Hale. I asked him to send me either to Nushigak, Koggiung or Naknek, or over to Dutch Harbor, to see other doctors around there. I told him how this doctor treated me; they all knew, anyhow, the treatment I got.

Q. How far was Naknek from where you were?

A. About 30 miles.

Q. Was there a doctor and a hospital there?

A. Yes, sir.

Q. How far is Koggiung from where you were?

A. About five or six miles.

(Testimony of Peter Larsen.)

Q. Was there a doctor there?

A. Yes, sir, there is a Government doctor there, and also a Government doctor at Nushigak.

Q. How far is Dutch Harbor?

A. About 350 or 375 miles, or probably 400 miles. I think it ought to be about 400 miles, right across the Behring Sea.

Q. This cannery was right up at the head of Bristol Bay, was it not?

A. Right at the bay; about 60 miles from the entrance of the river.

Q. What did the superintendent say when you asked him about sending you over to those places?

A. He said he will see; he said, he will attend to it. He said he will attend to it, but I didn't hear nothing. He didn't attend to it, he didn't give me any treatment. [31]

Q. He didn't send you to either of those places?

A. No, sir. I stayed there three or four days and I talked to the bookkeeper, and I talked to Smith about it, but they didn't send me one place or the other, and I went aboard the ship and we started out for home.

Q. Did you do any work when you went aboard ship at that time?

A. I finished up the sails, the large sail I was working on, the topsail, but that is all I could do; I could absolutely hardly walk; I could not handle the sails, or do anything more after that; I did very little on the way home.

Q. What time did the "Olympic" leave up there for San Francisco?

(Testimony of Peter Larsen.)

A. She must have left somewhere around the first of September.

Q. What time did she arrive in San Francisco?

A. On the 14th of October; I don't know whether it was the first or the second of September she left up there.

Q. And after she arrived in San Francisco, where did you go?

A. I went to a doctor right away.

Q. Doctor Long?

A. No, I went to another doctor out in the Mission, first, and he advised me to go to the hospital. I went down to Haller's office; he took me down in an automobile to Haller's office, and I spoke to Haller.

Q. Who is Haller?

A. He is the manager of this fishing company.

Q. The manager of the cannery up there?

A. The manager of the Alaska Salmon Company.

Q. He is the manager for the North Alaska Salmon Company?

A. Yes, sir, and he said he wouldn't have nothing to do with me at all. I wanted to know if he would go good for the doctor's [32] bill, and settle with me a little reasonably, I wanted to see if he was going to do that; I didn't have much money, I was short of money, I was laid up, and a big family to support; and he said, "I would not have anything to do with it all," and this doctor wouldn't take it and wait for his money, so I had to go to Doctor Long. He took me in hand on the 16th and he treated me right up to February. I didn't get out to work

(Testimony of Peter Larsen.)

until the 28th of February, 1913.

Q. You were not able to work until the 28th of February, 1913? A. No, sir.

Q. What do you earn on an average during a year?

A. Well, I have not figured it out. When I am well, when I go to Alaska for five months—the year before I averaged \$550; and of course that season that I was up there I lost by not being able to work from the 12th; of course, I got the average, but that is not what I would have earned, if I had been able.

Q. What did you get for the average?

A. It didn't amount to much—I forget what it was; I can't think of that.

Q. About how much would it be?

A. \$50 or \$60, I guess, something like that. I forget how many thousand fish they did get. We get paid at the rate of so much a thousand. I think it amounted to about \$70.

Q. I mean for the season.

A. For the season I made \$530.

Q. That is, from April 17th, until October 14th, you got \$530? A. Yes, sir.

Q. Did that include your run money?

A. Yes, sir, that was everything.

Q. That was including everything?

A. Yes, sir.

Q. When you are down here, what business do you generally work at? A. Longshore. [33]

Q. When you work alongshore, how much do you get?

(Testimony of Peter Larsen.)

A. \$4.50 when I am working, and if I am bossing, I get 5.

Q. How much time do you work out of the month?

A. About 20 or 23 days a month.

Q. Between 20 and 23 days a month?

A. Yes, sir.

Q. State whether or not you paid out anything for medicines during the time you were sick.

A. I paid out \$15 for medicines and bandages.

Q. After you went to work, what was the condition of your leg then?

A. I could not work at the work I done before. I was not able to do trucking on the dock, or down below; I could not carry any heavy weight; and I cannot carry any heavy weight yet, because my leg doubled up on me.

Q. Otherwise, what is the condition of your leg—pretty good?

A. Pretty good, but it is stiff. If I stand and twist and turn sideways like, it always hurts me through the knee, under the knee-cap; and it often swells up if I work hard; it always swells up on me.

Q. During the time that you were laid up in San Francisco, and not working, what were your average expenses outside of the expenses of your medical care and attention and medicine?

A. Seventy-five dollars a month I had to use for my expenses, for eating and for fuel and for the children and myself and my wife; \$75 a month is the cheapest I could possibly get along on, and I had to get along on it, because I had no more to use.

Q. Besides the \$530 that you got for the fishing

(Testimony of Peter Larsen.)

season, you also got your board and lodging, did you not? A. Yes, sir.

Q. You get your board and lodging from the time you leave San Francisco until you get back to San Francisco? A. Yes, sir. /[34]

Cross-examination.

Mr. FREIDENRICH.—Q. On the day that you were hurt, which you say was the 12th day of July, were you struck by the fish bucket? A. No, sir.

Q. How far away were you from the fish bucket at the time that you were hurt?

A. The fish bucket was only about three feet to the back of me.

Q. And you were not struck at all by the bucket?

A. No, sir.

Q. Well, how did you get hurt?

A. By making a quick move to turn around so that the bucket would not strike me when she swung toward the bulwark, because if I had not jumped so quick out of the way the bucket would have hit me.

Q. Did the bucket swing? A. Yes, sir.

Q. It swung towards you? A. Yes, sir.

Q. And to avoid being struck, you made a quick movement? A. Yes, sir.

Q. And that is what caused the injury?

A. Yes, sir.

Q. And you are quite sure that the bucket swung toward you?

A. Yes, sir, she is on a swinging gaff.

Q. Who was present at that time?

A. The boss was there; the man who was doing the hoisting; the man who was doing the donkey-driv-

(Testimony of Peter Larsen.)

ing. There was three or four men in the lighter doing the same work I would do.

Q. Was there a man named Luttick present?

A. I don't know; I don't remember the name. What is the first *time*?

Q. Max Luttick?

A. Max, yes, I know him; he is the boss, if I am not mistaken.

Q. Do you know a man named William J. Young?

A. Yes.

Q. Was he present at the time? [35]

Q. You say he was not?

A. I don't think so, unless he was on the wharf; if he was on the wharf I don't know, because I could not see anybody that was on the wharf.

Q. What was done after you were injured?

A. I was helped up to the bunk-house.

Q. Who helped you up?

A. The wenchman helped me up, and one of the fellows that works on the dock. He helped me up in a machine that they used to transfer the fish from the dock up to the cannery.

Q. About what time in the day was that?

A. Half-past four.

Q. How soon after that did the doctor come down?

A. About an hour or half an hour.

Q. About an hour?

A. Half an hour; he came down very quick.

Q. How far is Halliwell from Locanock?

A. Two or three miles, I guess; $2\frac{1}{2}$ miles or something like that; I could not say.

Q. And the doctor came down—

(Testimony of Peter Larsen.)

A. (Intg.) In about three-quarters of an hour, maybe.

Q. And you were lying in a bunk in the bunk-house, were you?

A. I was sitting on a bench alongside of my bunk.

Q. Did the doctor make an examination of your leg? A. Yes, he did.

Q. How long was he engaged in the examination?

A. Oh, he looked at it for a couple of minutes and painted it with iodine and gave me some liniment he had along.

Q. When did you next see the doctor?

A. On the 15th.

Q. That was four days afterwards?

A. Three days afterwards, the third day afterwards.

Q. And did he make an examination of your leg at that time? A. He did, yes, sir. [36]

Q. Did you have any difficulty with the doctor at that time?

A. Oh, no; we had a few words. He said, "Nothing is the matter with it," and he ordered me to work; he turned around to the boss and said, "There is nothing the matter with this man's leg, Max; turn him to."

Q. And all you had with him was a few words?

A. Oh, no; I struck him in the face on the 24th—on the 23d of the next month.

Q. On the 24th you did what?

A. On the 23d of August I struck him in the face.

Q. You slapped him in the face on the 23d?

A. Yes, sir.

(Testimony of Peter Larsen.)

Q. Did you have any difficulty with him up there in the month of July? A. No, sir.

Q. Did you have a fight with him up there?

A. No, sir, not in the month of July.

Q. Not in the month of July? A. No, sir.

Q. Did you have in the month of August?

A. On August 24th, yes; he didn't come to see me from the 15th of July to the 24th of August; he never came to me at all. I sent up for some medicine. Two men had sore fingers. He said, "I don't mind giving treatment to anybody who is sick, but with that man, nothing is the matter with him. I will mix him up something good this time," and he sent me down a bottle of liniment, or something that looked like it, and I was afraid to use it, but I rubbed it on the skin, but it was something like water. I know what he meant afterwards when he said something strong; I thought it was some soap and water.

Q. On the 24th you did have an altercation with him?

A. Yes, because he ordered me out and said nothing was the matter with my leg. I told him, as I will say right straight, "If my leg [37] was so good as you say it is, you would not have got out of the bunk-house in such a hurry. I will give you a good slap, and I will give it to you anyway," and I slapped him in the face, just where I stood.

Q. You slapped him in the face?

A. Yes, and he grabbed a shotgun and got alongside the door and he opened the door and got out and was going to shoot.

Q. During that period, between the 12th of July

(Testimony of Peter Larsen.)

and the 24th of August, did you have any talk with Mr. Hale, the superintendent?

A. I had a talk with him, yes, sir.

Q. Do you mean to say that you asked Mr. Hale to send you to Dutch Harbor to the hospital?

A. I didn't ask him to send me to Dutch Harbor. I asked him to send me anywhere to a doctor; I didn't mention any special place to Mr. Hale, no, sir.

Q. You didn't mention any particular place?

A. No, sir. I asked him to send me anywhere to a doctor to get medical treatment.

Q. Didn't Mr. Hale offer to send you to Dutch Harbor, where there is a hospital?

A. No, sir, he never offered that to me.

Q. He did not? A. No, sir.

Q. At no time? A. No, sir.

Q. And didn't you refuse to go? Didn't you say that you didn't want to go, or words to that effect?

A. No, sir, I would certainly have liked him to have sent me to any doctor; not so far as Dutch Harbor. If he sent me to Koggiung or to Naknek it would be all right, because I fished there and I knew there was a good doctor there.

Q. Do you know a place up there called Hagnak, or some such name as that? A. No, sir. [38]

Q. Koggiung?

A. Yes, I know that place; that was six miles below.

Q. And there is a hospital there, is there not?

A. Yes, I believe there is; there is a Government doctor there.

Q. Didn't Mr. Hale, the superintendent, offer to

(Testimony of Peter Larsen.)

send you to Koggiung? A. No, sir.

Q. And didn't you say you didn't want to go?

A. No, sir.

Q. Did you ever ask Mr. Hale to send you either to Dutch Harbor or to Koggiung?

A. No, sir; I didn't ask him to send me to any particular place at all. I asked him to send me anywhere, to a doctor, because there were doctors all around, yes, sir.

Q. Did you not, on or about the 24th of August, ask Mr. Hale, who was the superintendent, to send you to Locanock or to Naknek—to send you to Naknek or to Koggiung for treatment?

A. I asked him to see a doctor, either one place or the other. I didn't ask him to send me exactly to Koggiung, Naknek or Dutch Harbor, no, sir.

Q. Did you ask Mr. Hale to send you there?

A. Yes, sir, I asked him to be kind enough to send me to either one of those places to get treatment, but I didn't mention any special place; I said, "There is a Government doctor in Koggiung, and also one at Nushigak, and also a very good doctor at Naknek, where I fished the year before, and he is a very good doctor, and I know he treated several patients there, and there was no fault to find.

Q. Now, I will ask you if he did not offer to send you to either one of these places.

A. Mr. Hale said to me, "I will attend to it, Larsen, I will attend to it," but nothing ever came up. He said, "If I can't get any other steamers, as soon as any [39] other steamers are idle, I will see what I can do," but he never came to me or sent me

(Testimony of Peter Larsen.)

anywheres, no, sir. He promised, but he did not come up to his promise.

Q. During the time that you were on shore, and before the "Olympic" started for her return, you occupied a bunk in the bunk-house, did you not?

A. I occupied a bunk in the bunk-house from the 12th of July until the 1st of October, I guess—no, I mean August.

Q. And they furnished you with all the necessities which you required, did they not?

A. I had to limp out there and go to the cook-house for my meals. They helped me along. I was on a crutch and a stick during that time. I had to walk over there to get them myself. Sometimes, when it was bad weather, the boys brought it in to me.

Q. They paid you according to the wages agreed upon?

A. They paid me according to the average of the fish caught from the 12th of July until the time they called the boats in.

Q. And after you were hurt, on the 12th of July, you did no work at all, did you?

A. I didn't do anything from the 12th until the first of the next month, when I went aboard of the ship and I worked up until the 24th or the 23d of August. I went aboard on the 1st and mended sails. I was asked to go aboard, so as to get my average, and if I didn't go aboard I wouldn't get my average.

Q. Mr. Larsen, after you returned to San Francisco, have you been doing any work at all, did you do any work at all since you returned to San Fran-

(Testimony of Peter Larsen.)

cisco? A. Yes, sir, I have, a little.

Q. You are working yet?

A. Light work I can do, but it is very hard to get it; I get such a thing as driving a steam winch, [40] or anything like that, but that is very hard to get. Of course, I generally used to be working on the dock, or down in a ship's hold; I can't get light work; there is not so much of it. There is only one man required to tend hatch, while there are eight or ten doing the hard work.

Q. Have you had any trouble in San Francisco since that time? A. No, sir.

Q. You have not been in jail, have you?

Mr. WALL.—We object to that. We do not contend there has been any damage beyond the time he was able to go to work, so far as cure is possible.

A. I have not had any trouble with anybody since then.

Mr. FREIDENRICH.—Q. How many days have you worked since January, 1913?

A. I didn't do no work until the 28th of February, 1913.

Q. You didn't do anything up to that time?

A. No, sir.

Q. Since that time have you done any work?

A. Since that time I have been working, yes, a little.

Q. You have been working steady since that time?

A. No, sir, not steady, because I am not able to work steady, I can't do the work I used to do before, I can't work steady.

Q. Before you started on this trip, what was your

(Testimony of Peter Larsen.)

average weekly salary, or how much did you get weekly for your work?

A. Oh, it is very hard for me to state that, because we are not working by the week; we work only when we get a ship to discharge; sometimes we might have two ships a week, or sometimes we are working on one for more than a week.

Q. But you never had any steady occupation?

A. Oh, yes, I used to have a good steady occupation for Captain Woodside; I averaged four and a half, according to the union wages, on some ships [41] and \$5 on others; it all depends on where the ships come from and what ships they are.

Q. Were you compelled to do any work on the "Olympic" coming down? A. No, sir.

Q. You were not?

A. No, sir; I was not compelled to do any work coming down.

[Testimony of August Kohler, for Libelant.]

AUGUST KOHLER, called for the libelant, sworn.

Mr. WALL.—Q. You were a seaman and fisherman for the North Alaska Salmon Company during the season of 1912, were you not? A. Yes, sir.

Q. Were you in the bunk-house on the 12th of July, 1912, at the time that Larsen was brought in there? A. Yes, sir.

Q. Did you see the doctor come in to see him at that time? A. Yes, sir.

Q. Tell the Court fully just what happened, so far as you know yourself, what you saw, what you

(Testimony of August Kohler.)

heard, and what was done.

A. I was in the bunk-house and the doctor came in; Larsen had damaged his knee. He said, "Well, what's the matter with you?" Larsen said, "I hurt my knee"; he said, "The way the fellow was telephoning, I thought you broke your neck; the next time a thing like that happens, I won't come at all." So he examined his leg, and he said, "There seems not much the matter with your leg." I seen him rubbing some iodine on. He gave him a couple of pills. He said, [42] "You will be all right in the morning." Some days later, I saw him coming in again.

Q. About how long afterwards did you see him come in, about how many days later?

A. I didn't pay any attention to it; it might be three or four days.

Q. What time was it that he came in there?

A. You mean the doctor?

Q. Yes, what time of the day?

A. In the afternoon.

Q. Go ahead and tell what happened then.

A. He examined his leg again, and he said, "There is nothing the matter with your leg." He said to Max, the beach boss, "You better turn that man to." "You are nothing but lazy." Larsen said, "Well, you must know more about my leg than I do myself." And he said, "Oh, yes." He said, "I studied these cases for the last fourteen years. I will go off and see old man Hale and tell him to give him lots of work." And I seen him walk off in that direction.

Q. In the direction of Hale's place?

(Testimony of August Kohler.)

A. Yes, sir.

Q. Did you see the doctor in there after that?

A. Oh, yes, it was long after that.

Q. About how long after that did you see him there again, later, about how many days or weeks?

A. That might be three weeks later, or something like that, or four weeks later.

Q. At that time tell just exactly what happened, the third time.

A. Well, the third time when he came in, Larsen came from the ship, he was working on board the ship sewing sails; he sent up for the doctor and the doctor came down.

Q. Did you see Larsen come into the bunk-house?

A. Yes, sir.

Q. How was he walking?

A. He was walking on a cane or a crutch; I don't know exactly—I guess he had a cane. His leg was [43] then in the same shape *was* it was before; he showed us the leg. The doctor came in, and he had a shotgun with him; he put the shotgun in the corner, by the door, and he says, "Well, how about you?" Larsen told him, "It is worse than it was before, so far as I can see." He said, "I can't walk or do nothing." He said, "Walk across the room." Larsen limped across the room. And he said, "Put your pants down." And Larsen did, and stood up, and he wanted to break the knee through. He was laughing, and he said, "Well, I guess there is nothing the matter with you; you might find out more about it when you come down to San Francisco." Larsen said, "That's what I am going to do." He said, "I

(Testimony of August Kohler.)

thought you would change your mind by this time; the leg is worse than when it was first hurt. I don't think you are much of a doctor, at all."

Q. What did Larsen do then?

A. Well, Larsen told him, he says, "If I had my two legs, as you say I have, you would perhaps need a doctor yourself to take care of you; you would go out of here in a hurry." So at that time Larsen buttoned up his pants and he batted him one on the nose, and the doctor reached for his gun and went outside, and when he got outside he cocked the gun, but after while he walked away. That is all I know about it.

Mr. FREIDENRICH.—No cross-examination.

Mr. WALL.—That is the libelant's case on direct.
[44]

[Testimony of Max Luttich, for Respondent.]

MAX LUTTICH, called for the respondent, sworn.

Mr. FREIDENRICH.—Q. What is your occupation?

A. Mate on board the ship and beach boss at the cannery.

Q. Where were you in the month of July, 1912?

A. At Locanock cannery, as beach boss.

Q. In whose employ were you?

A. In the employ of the North Alaska Salmon Company.

Q. Do you know Peter Larsen, the libelant?

A. Yes, sir.

Q. Did you see him on the 12th of July, 1912?

(Testimony of Max Luttich.)

A. Yes, sir.

Q. Where were you at that time?

A. I was on the wharf superintending the work.

Q. Did you see him at the time that he claims his leg had been injured? A. Yes, sir.

Q. State just what occurred at that time.

A. I was at the wharf attending to taking the fish up, and as I blew the whistle, Peter Larsen turned himself and claimed his leg was twisted.

Q. Did you give the signal to the engineer?

A. Yes, I did.

Q. At that time you were standing where?

A. I was standing by the derrick, on the wharf, right above the place where he twisted his leg.

Q. Did the fish bucket swing at all?

A. No, sir, it could not swing.

Q. It could not swing? A. No, sir.

Q. Why not?

A. Because there is a guy on the gaff.

Q. Did you notice Peter Larsen just before he was hurt? A. Yes, sir.

Q. How far from the bucket was he?

A. About four feet.

Q. Did the bucket strike him at all?

A. No, sir.

Q. Do you know how he got hurt?

A. Yes, sir, I seen him standing [45] like this, he had his pew in his hand, and as I blew the whistle he turned himself, and then he hurt his knee.

Q. What was done after he complained that he had been hurt?

A. I got a couple of men to help him up the ladder

(Testimony of Max Luttich.)

to the wharf, and I put him on the car and sent him up to the bunk-house, and after I got through I went up to the bunk-house and asked him if he wanted to go to Halliwell, to the hospital, and he said no, he didn't think it was necessary.

Q. How far is that from your place?

A. Three miles.

Q. Is there a hospital over there?

A. We call it a hospital; there is generally some kind of a doctor there, and they have some rooms fixed up as a hospital.

Q. And you asked him if he wanted to go there?

A. Yes, sir.

Q. And he said he did not think it was necessary.

A. He said he didn't think it was necessary?

Q. What was done about telephoning for a doctor?

A. I telephoned up from the wharf to the superintendent of the cannery, and he telephoned to Mr. Hale, first, but Mr. Hale could not be got at the time. When I came up, myself, at six o'clock, I telephoned to Mr. Hale; it might have been six or half-past six.

Q. Mr. Hale is the superintendent of the cannery?

A. Yes, sir.

Q. Where did you telephone to?

A. To Halliwell.

Q. Three miles away? A. Yes, sir.

Q. Did the doctor come?

A. Yes, sir, the doctor came. He arrived there about a quarter to eight, or eight o'clock.

Q. What is the name of the doctor?

A. I don't know.

Q. You don't know his name? A. No.

(Testimony of Max Luttich.)

Q. Were you present when the doctor examined him? A. No, not then, not at that time. [46]

Q. Did you after that see the doctor?

A. I seen him there afterwards, yes, about two or three days after that.

Q. Was he attending to Larsen then?

A. He was attending to Larsen then.

Q. Did you observe him make an examination?

A. He bared his leg and looked at his knee; that is all he done to it in my presence.

Q. Did you see Larsen's leg at the time?

A. Yes, sir.

Q. Was there any scar on it?

A. Not that I recollect.

Q. That is all you know about the case?

A. That is all I know about it.

Cross-examination.

Mr. WALL.—Q. You say you asked him if he wanted to go to Halliwell? A. Yes, sir.

Q. How far is Halliwell from the bunk-house?

A. About three miles.

Q. The same doctor came down to the bunk-house from Halliwell? A. Yes, sir.

Q. You say there was a guy on the gaff—

Mr. FREIDENRICH.—(Intg.) One moment, Mr. Wall; there is one question I would like to ask.

Mr. WALL.—Very well.

Mr. FREIDENRICH.—Q. Did you have a talk with Larsen after that?

A. No, only when I came up to the bunk-house, after I telephoned to the doctor and asked him

(Testimony of Max Luttich.)

whether he wanted to go to Halliwell, that is the only talk I had with him.

Q. At the time he went aboard the ship, coming back, did you have a talk with him as to the condition of his leg?

A. Just before he went aboard the ship, I asked him if he wanted [47] to go aboard the ship or stay ashore, whether he was able to do any work, and he said he would be able to do some sail-making work, because he could sit down to that and would not have to move.

Q. Did you ask him about his leg at that time?

A. Yes, I asked him and he said it was getting better, but slow.

Mr. WALL.—Q. You say there was a guy on the gaff? A. Yes.

Q. What is that?

A. The guy is a rope to steady the gaff from swinging, just so that the tub cannot swing.

Q. That is, you were on the wharf, on the fish dock? A. Yes, sir.

Q. And there is an upright from the wharf that stands up like that? A. Yes, a derrick.

Q. And the gaff comes over from it?

A. No, the gaff leads out from the derrick.

Q. It leads out over the barge or lighter?

A. Yes, sir.

Q. The gaff does? A. Yes, sir.

Q. And you say there was a guy on that gaff?

A. Going down from the gaff to the lighter, with a man attending to it.

(Testimony of Max Luttich.)

Q. Well, you don't know whether that man slacked it or not, do you? A. I know he did not slack it.

Q. Hanging from the gaff, is the tackle that the bucket is hooked on?

A. It is a worm piece of wire that is lifted by steam.

Q. It comes from the gaff down to the fish on the lighter? A. Yes.

Q. About how long is that?

A. Well, about 40 feet.

Q. About 40 feet? A. Yes, sir. [48]

Q. And that is on the top of the fish?

A. It is according to the water, if it is low water or high water.

Q. The lower part of the rope hooks into the bucket, does it not? A. It hooks into the bucket.

Q. There is no guy on the bucket, is there?

A. There is no guy on the bucket; no.

Q. When the bucket is lifted up there is nothing to prevent it from swinging, is there?

A. How can it swing when it is straight up and down.

Q. Doesn't it rest on the slippery fish?

A. It does not rest on the slippery fish at all; it is on the bare deck of the lighter.

Q. How could you see that from where you were on the deck?

A. Because, I could look right down, the same as I can look at this space.

Q. You were the donkey-man, were you?

A. No, I was bossing the work.

(Testimony of Max Luttich.)

Q. Who was attending to the fall?

A. The ship's carpenter.

Q. And where were you?

A. I was alongside the derrick.

Q. What were you doing there?

A. I was attending to the strapping line; when the bucket goes up, the donkey-man lets go the fall and that swings over the wharf.

Q. How can you swing that over the wharf unless the guyman slackens his rope?

A. Because the derrick has a lean to it, and when it gets up there, the man down below slacks it and the bucket goes clear.

Q. You say Larsen was standing on the fish with a pew in his hand?

A. I don't think he was standing on the fish, because the lighter is bare in places.

Q. He was standing with a pew in his hand, was he? A. Yes, sir. [49]

Q. And then he turned around suddenly and said he was hurt? A. Yes.

Q. How long have you been in the employ of the North Alaska Salmon Company? A. Since 1904.

Q. Are you going up this season? A. Yes.

Q. You have been up there every season since 1904, have you? A. Yes.

Q. In their employ?

A. In their employ; yes, sir.

[Testimony of Alexander Young, for Respondent.]

ALEXANDER YOUNG, called for the respondent, sworn.

Mr. FREIDENRICH.—Q. What is your occupation? A. Seaman and mate of the ship.

Q. Were you at the cannery of the libelor, the North Alaska Salmon Company, at Locanock, in the month of July, 1912?

A. Well, I was laying off there.

Q. You were there off and on? A. Yes, sir.

Q. Do you know Peter Larsen, the libelant?

A. Yes, I know him.

Q. Were you present at any time, or at a conversation between Peter Larsen and Mr. Hale, the superintendent? A. I was; yes, sir.

Q. After Mr. Larsen got hurt? A. Yes, sir.

Q. State what was said between them.

A. Well, I brought him up from the cannery, the last trip I made from the “Olympic” up to the cannery, and I was up on the platform when Mr. Hale came down to the cannery platform, the bookkeeper and I and Mr. Hale were talking at the time. Larsen came along at the time and Mr. Hale stopped talking to me at that time and he turned around to [50] Larsen and asked him how he was, if he was getting any better, or what, and he said, no, he didn’t think he was getting much better—he was about the same. Well, he allowed he would like to see another doctor. He said there was another doctor at Koggiung. Mr. Hale turned around to the bookkeeper and he said, “All right, you get the launch and take

(Testimony of Alexander Young.)

this man to Koggiung to see the doctor any time he wants to go, and send the bill to me; I don't care for a few dollars if it will do the man any good." That is all I know about it.

Q. When did the conversation occur?

A. Well, I think this was somewhere around the 21st or 22d of August. On the 19th I made my last trip. I think it was about the 20th. I know the next day that I went up to the ways. That is as near as I can remember.

Q. You were mate on the "Olympic" on the way down? A. Yes, sir.

Q. Was Larsen put to work on the way down?

A. No, sir.

Cross-examination.

Mr. WALL.—Q. What is your occupation now?

A. I am doing rigging work, now.

Q. Do you expect to go up with the North Alaska Salmon Company this season?

A. I don't know; I expect so, if they give me a job.

Q. Were you up there last season? A. Yes, sir.

Q. How long have you been going up there with them? A. Seven years.

Q. They will be starting out some time next month, won't they?

A. I don't know when they expect to start out; that is up to [51] the company.

Q. What did you say was your occupation up there in 1912?

A. I was *mater* of the steamer "Milwaukee" after I arrived up there *in* on the "Olympic"; then I took

(Testimony of Alexander Young.)

the "Milwaukee" and took her until we came home.

Q. The "Milwaukee" is a stern-wheel steamer?

A. Yes, sir.

Q. It is operated by the North Alaska Salmon Company? A. Yes, sir.

Q. What time did this conversation take place that you speak of?

A. Well, as near as I can recollect, it was about the 20th of August. The last trip that I made was on the 19th, and he came up with me at that time on that trip, Mr. Larsen.

Q. He came up from the "Olympic"?

A. He came up from the "Olympic," yes, sir.

Q. What was his condition then—did he have a cane or a crutch?

A. He always carried a stick; he was limping around the same as he always was; I didn't see much difference in him. I didn't see much of him, anyhow.

Q. What was the conversation that Hale had with him? Just what did Hale say to him at that time?

A. This man allowed he wanted to see the doctor at Koggiung; well, Mr. Hale says, "All right," and he turned around to the bookkeeper and said, "You get the launch and take this man to Koggiung to the doctor any time he wants to go, and send the bill to me"; he said, "I don't care for a few dollars if it does the man any good." Those are the words I heard and that is all I heard about it.

Q. Is that all that was said?

A. That was all that was said that I know of.

(Testimony of Alexander Young.)

Q. Did Larsen say anything further?

A. No, not that I remember; [52] I don't remember his saying anything at all in reply to that, whatever. I was not so much interested in it, anyhow.

[Testimony of C. P. Hale, for Respondent.]

C. P. HALE, called for the respondent, sworn.

Mr. FREIDENRICH.—Q. Mr. Hale, what is your occupation?

A. Superintendent of the North Alaska Salmon Company.

Q. What cannery are you superintendent of?

A. Three of them.

Q. In 1912, what cannery were you superintendent of?

A. Halliville—the name is Halliville and not Halliwell—Locanock and Agake.

Q. Were you up there at that time?

A. Yes, sir.

Q. You know Peter Larsen, the libelant, here?

A. Yes, sir.

Q. Do you remember the time that he was hurt?

A. Yes, sir.

Q. Did you learn of it on that day, the day that he was hurt?

A. They telephoned to me immediately after he was hurt; I was at the cannery above, about two miles from Locanock.

Q. You were at Halliville at the time?

A. Yes, sir.

Q. What, if anything, was done, as soon as you heard of it?

(Testimony of C. P. Hale.)

A. I immediately went over and got the doctor and sent him down there.

Q. Do you know the name of the doctor?

A. Yes, his name is—

Q. (Intg.) Doctor Hassett, was it not?

A. Yes, that is the doctor, Doctor Hassett.

Q. Let me ask you, did Doctor Hassett come back with you on that trip?

A. He came back with the ship I sent him up on.
[53] He didn't come back with me.

Q. Do you know where he is now?

A. No, I don't know where he is now.

Q. Have you hunted for him since this suit began?

A. Yes, sir, we tried to locate him. We had him here both times before when the suit came up, but we cannot locate him now, this last time.

Q. When did you see Mr. Larsen after he was hurt the first time?

A. I seen him several days after he was hurt.

Q. Several days after that?

A. Yes; I don't remember whether it was three or four, or five days.

Q. And between that and the 20th of August, how often did you see him?

A. I used to visit that cannery about three or four times a week.

Q. Three or four times a week? A. Yes, sir.

Q. Mr. Hale, did he ever request that he be sent elsewhere?

A. Yes; after he licked the doctor, I went down

(Testimony of C. P. Hale.)

and saw him and I had a talk with him, and then he spoke about going to Koggiung; Koggiung is a little cannery about four miles below us. I offered to send him down there, let him have the launch, in fact, I instructed the bookkeeper and told the man that runs the launch to be ready and take him down in the morning; I told him he could go any time he wanted to. I said, as long as our doctor could not see him and satisfy him, I was perfectly willing he should go down and see the other doctor.

Q. What did he say?

A. He said, "Just as you say." I said, "It is not what I say, it is not what I say; it is whatever you want to do." I said, "Our doctor claims you don't want him to treat you, and you won't let him treat you." The doctor complained from the first time he went down there that this man didn't want him to treat him, and I had to keep making [54] the doctor go. I told him to go as often as necessary and do what he could for the man. After he had the row and he licked the doctor, the doctor didn't want to go any more.

Q. Did he have a row with the doctor?

A. He licked the doctor when he went down to treat him.

Q. Tell us about that.

Mr. WALL.—Q. Were you present at the time, Mr. Hale? A. No.

Mr. FREIDENRICH.—Q. Did Larsen tell you anything about it? A. Yes.

(Testimony of C. P. Hale.)

The COURT.—Well, he told us himself that he licked him.

Mr. WALL.—I am quite satisfied that he did, your Honor, but I don't see how this man can testify to it, if he did not see it.

Mr. FREIDENRICH.—Q. What did Larsen tell you about it?

A. He told me he licked the doctor because the doctor told him he ought to go to work.

Q. Did Mr. Larsen complain to you at any time that he was not being properly treated?

A. At that time he said he did not think the doctor understood his business.

Q. He complained of the doctor?

A. Yes, and then was the time I told him I was perfectly satisfied for him to go down and see the other doctor.

Cross-examination.

Mr. WALL.—Q. Just what did he say to you when he told you he licked the doctor?

A. Well, I could not repeat the exact words; he told me he licked the doctor.

Q. You say the doctor told you that Larsen didn't want him to treat him?

A. Yes, he told me that from the very first. [55]
I insisted on his going after the first time, I insisted on his going all the time, because it is my business to see that the doctor does go around and attend to these people.

Q. But the doctor told you from the very first that Larsen did not want *you* to treat him?

(Testimony of C. P. Hale.)

A. That Larsen acted like he did not want him to treat him at all.

Q. He told you that from the very first?

A. Yes, sir.

Mr. FREIDENRICH.—Q. Do you know anything about the qualifications of the doctor before you employed him?

A. Oh, yes; I looked up his reputation and got recommendations from many people. I made him show me his license, a New York license and a Nevada license—I am not sure that it was Nevada, but I know he had two State licenses; I did that to make sure he was the proper man for the business. I do that with every doctor.

Q. You hired him? A. Yes, sir.

Q. And you paid him of course, his regular wages?

A. I paid him his salary.

Mr. WALL.—Q. You did not see Larsen between the first of August and the 23d of August, did you, Mr. Hale?

A. I saw Larsen after he was hurt. I looked in the bunk-house. I only had one conversation with him, and that was the time I offered to send him to another doctor; that was either one or two mornings after he whipped the doctor.

Q. After he was hurt, how many days do you suppose it was before you first saw him?

A. I think two or three days; I visited the cannery, and I saw him sitting in the bunk-house.

Q. When did you next see him?

A. I could not say exactly.

(Testimony of C. P. Hale.)

Q. About what time?

A. Oh, probably two or three days. I don't know. When I go down there I always make it a habit of [56] going around the place to see what is going on in general. I had a foreman there to look after things, but it was my business to call there two or three times a week and see that everything was moving all right.

Q. After the first of August, you don't know how often you saw him? A. I could not say.

Q. Did you see him after the first of August, at all, in the bunk-house?

A. I don't know as to the date; I know that I seen him.

Q. Can you be sure you saw him at all between the first of August and the 23d of August?

A. Well, I would not say as to dates when I seen him. I know I saw him at that time, and this was after the fishing season, and that is always after the first of August.

Q. Can you say positively—

A. (Intg.) Yes, I saw him after the first of August.

Q. When?

A. The exact date I do not know, because my recollection is that I took the boats home, and I know that we were loading cases, and that we never ship out any cases until after I call the boats home, so I know it was after the first of August.

Q. Can you say positively there was no time during the season up there when you did not see Larsen

(Testimony of C. P. Hale.)

at least once every ten days?

A. No, I don't say that, but I always saw him practically every time I went down there.

Q. Every time you went down where?

A. Down to Locanock; if I didn't see him every time, I would see him every other time, because I always made it my habit to look into the bunk-house, to see who were laid up, and what was going on, who were idle. [57] It is my business to do that.

Q. Do you know that he was at Locanock right straight along during the season?

A. He went aboard the ship after the fishing season. I don't know the exact date. After he got down there, there was some trouble, something he did down there, and he was either sent ashore, or he came ashore—I know they sent him back to the cannery; they didn't want him at the ship.

Q. How did this conversation come about?

A. I commenced talking to him about the shipping of the doctor, and he told me the story.

Q. And you say you told the bookkeeper to let him have the boat when he wanted to go over?

A. I told the bookkeeper in the morning that if he wanted to go down to give him the launch and tell him to tell the launchman to be ready to take him.

Q. You told the bookkeeper to tell the launchman?

A. Yes, sir, and then I telephoned to the bookkeeper the next morning and asked him if he had the launch ready, and he said yes, but Larsen didn't want to go.

Q. Did Larsen suggest to you first that he wanted

(Testimony of C. P. Hale.)

to go to see some other doctor?

A. He talked about it, yes, and I told him I was willing, and I told him if he wanted to go, he could go, but he said, "It is up to you."

Q. Did you make any inquiries after that, to find out why he did not go?

A. I asked the bookkeeper if he went, and he said no.

Q. Did you ask the bookkeeper why he did not go?

A. No.

Q. Did you ask Larsen at the time why he did not go? A. No. [58]

[**Testimony of Thomas H. Evans, for Respondent.**]

THOMAS H. EVANS, called for the respondent. sworn.

Mr. FREIDENRICH.—Q. What is your occupation? A. I am captain of the bark "Olympic."

Q. And were you captain of the vessel in 1912?

A. Yes, sir.

Q. And you went up to the canneries, to Bristol Bay, did you? A. Yes, sir.

Q. For the libel in this case. A. Yes, sir.

Q. Do you know Peter Larsen? A. Yes, sir.

Q. Did you bring him back with you on that trip?

A. Yes, sir.

Q. Was he put to work at all on that trip?

A. Not on the trip down, he was not put to work, but he worked a little at Bristol Bay; he did not work on the trip down.

Q. He did not work on the trip down?

A. No, sir.

(Testimony of Thomas H. Evans.)

Q. Did he have any orders to go to work?

A. No, sir. He voluntarily went to work and repaired the sails.

Q. Whatever he did was voluntarily done by him?

A. Yes, sir.

Mr. WALL.—No cross-examination.

Mr. FREIDENRICH.—That is our case. We rest.

**[Testimony of Peter Larsen, in His Own Behalf
(Recalled in Rebuttal).]**

PETER LARSEN, recalled in rebuttal.

Mr. WALL.—Q. You heard the testimony in regard to the inability of that bucket to swing; explain to the Court how [59] the bucket was rigged, and how it was operated.

A. There is a derrick on the wharf, with a swinging gaff attached to it. The fall goes through a loading block at the foot of the derrick, and up to the gaff, and down to the bucket where we throw the fish in. Attached to this gaff is a guy, which leads over to one corner of the lighter; to get the bucket in, the gaff has to swing in on the wharf to dump the fish, and they have to slack the guy to swing that gaff in, and they have to haul the gaff out again. It is a swinging gaff. They have to hoist the bucket up, and they lower the bucket down. They have to haul the gaff out. Every time the bucket is filled, they have to swing the gaff in.

Q. It is impossible for the fish *to landed* on the wharf without the guy being slacked off, is it not?

A. It is absolutely impossible. When we land the

(Testimony of Peter Larsen.)

bucket down in the fish lighter, we still shove the bucket a little further, according to where the fish are in the lighter, and that gives it a swing.

Q. You heard Mr. Hale's testimony about the conversation when the mate was present, the conversation he had with you?

A. I did not see Captain Young when I spoke to Mr. Hale.

Q. You heard what Mr. Hale said about that conversation? A. Yes, sir.

Q. Did Mr. Hale, in your presence, say anything to the bookkeeper about getting the launch?

A. He may have told him afterwards, but in my presence he did not.

Q. You did not hear him say anything to the bookkeeper about the launch?

A. No, sir. He promised me to attend to it, and to send me to one place or the other as soon as I get my steamers here. [60]

Q. Did you tell him, "That is up to you"?

A. I said, "It is up to you, Mr. Hale, to take care of me; it is up to you to get me to some doctor where I can get treatment because that doctor won't do nothing for me; he claims there is nothing the matter with me."

Q. Did he, in your presence, give the launchman any orders that you could use the launch?

A. No, sir. There was no one there at the time. I spoke to Mr. Hale in the cannery—except the bookkeeper; the bookkeeper was there.

(Testimony of Peter Larsen.)

Q. Did you tell the bookkeeper at any time that you did not want to go?

A. No. I went down to the little house a couple of times and asked them if the launch was there yet to take me away, and he said, "No; we have no launches to spare."

Q. Who is the bookkeeper?

A. A fellow named Long—I have forgotten his name.

Q. Was it Young? A. I believe so.

Q. As I understand you, you never at any time told the bookkeeper you didn't want to go, or didn't want to use the launch? A. No, sir.

Q. Did you ever tell anybody you didn't want to go?

A. No, sir. Why should I tell anybody I didn't want to go when I went to the superintendent and told him I did want to go—why should I tell him I didn't wish to go?

Mr. FREIDENRICH.—No questions.

Mr. WALL.—That is the case.

(After argument by counsel, the cause was submitted to the Court for decision.)

[Endorsed]: Filed May 20, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [61]

*In the District Court of the United States, in and for
the Northern District of California, First Di-
vision.*

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON COMPANY, a Cor-
poration,

Libelee.

Deposition of Sigurd Andersen [for Libelant].

BE IT REMEMBERED that on Wednesday, March 12th, 1913, pursuant to stipulation of counsel hereunto annexed, at the office of F. R. Wall, Esq., in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, Francis Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., Sigurd Andersen, a witness produced on behalf of the libelant.

F. R. Wall, Esq., appeared as proctor for the libelant, and D. Freidenrich, Esq., appeared as proctor for the libelee, and the said witness, having been by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth. [62]

(It is hereby stipulated and agreed by and between the proctors for the respective parties that the deposition of Sigurd Andersen may be taken

(Deposition of Sigurd Andersen.)

de bene esse on behalf of the libelant, at the office of F. R. Wall, Esq., in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, on Wednesday, March 12th, 1913, before Francis Krull, a United States Commissioner for the Northern District of California, and in shorthand by Herbert Bennett.

It is further stipulated that the depositions, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said depositions, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.) [63]

SIGURD ANDERSEN, called for the libelant, sworn.

Mr. WALL.—Q. Give your full name, Andersen.

A. Sigurd Olgar Andersen.

Q. What is your business, what do you do for a living? A. Sailor.

Q. How long have you been a sailor?

A. I have been sailing since I was 15 years old. I am 28 now. 13 years I have been sailing.

Q. Were you up in Alaska last season?

A. Yes, sir.

(Deposition of Sigurd Andersen.)

Q. What vessel did you go up on?

A. The barkentine "Olympia."

Q. Where did you work that summer?

A. In Branch River.

Q. Branch River, Alaska? A. Yes, sir.

Q. For whom? A. Haller.

Q. Did you know Peter Larsen up there?

A. Yes, sir.

Q. Did he go up on the same boat?

A. Yes, sir.

Q. Tell what you know yourself, what you saw yourself, or heard yourself, if anything, about what happened at the time that Peter Larsen got hurt.

Mr. FREIDENRICH.—That is assuming that he was hurt.

Mr. WALL.—Q. Assuming that he was hurt, yes.

Mr. FREIDENRICH.—That is objected to upon the ground that it is assuming a fact not in evidence.

A. Peter Larsen was throwing fish over to the fish tub.

Mr. WALL.—Q. Where were you at the time?

A. I was on the lighter, attending to the guy.

[64]

Q. Where was Peter Larsen?

A. He was on the lighter.

Q. You were on the lighter?

A. Yes, sir, I was on the lighter, on the end of the lighter.

Q. Whereabouts on the lighter were you working?

A. I was working on the aft end.

Q. On the aft end? A. Yes, sir.

(Deposition of Sigurd Andersen.)

Q. And whereabouts on the lighter was Peter Larsen? A. About amidships.

Mr. WALL.—Mr. Freidenrich, are there any of the people who are present here, that are going to be witnesses?

Mr. FREIDENRICH.—They were not present, but one of them will be a witness. Mr. Hale was not present at the time of the accident, but will be a witness.

The WITNESS.—The tub was full of fish.

Mr. WALL.—Q. What were you doing on there?

A. I was attending to the guy.

Q. What were the others doing?

A. Throwing fish from the lighter in the tub.

Q. Where was the lighter at the time?

A. Alongside of the wharf.

Q. Alongside of what wharf?

A. The fish wharf.

Q. Whereabouts?

A. Right in front of the derrick.

Q. The fish wharf for what cannery?

A. Branch River.

Q. Was the lighter afloat or aground at the time of the accident?

A. It always used to be afloat there most of the time; I guess it must have been afloat; that I would not say for sure.

Q. How were the fish being landed on the wharf, if they were landed on the wharf?

A. They hoist the fish up in the tub [65] with steam and dump it into the fish wharf.

(Deposition of Sigurd Andersen.)

Q. Where did you say Larsen was standing at the time? A. Very close to the tub.

Q. And what was the condition of the deck of the lighter as to the amount of fish that was on the lighter? A. The lighter was about half full.

Q. And state what was the condition of the lighter as to fish where Larsen was standing.

A. He was standing in fish to above his knees.

Q. Now, go ahead and state just exactly what happened as far as you know yourself.

A. They was going to heave the tub up and Peter Larsen was standing very close to the tub so he made a quick move and he twisted his knee.

Q. What was done with him, if anything?

A. He would have stood a chance to get hurt with the tub, I guess, if he had not moved; still he did not move very far.

Q. And what was done with him afterwards, if anything?

A. A couple of men there helped him to get over the rail to the lighter, I guess. I don't remember if they heaved him up on the wharf or not. I don't think they heaved him up; they pulled him up. I don't know; I don't remember that.

Q. You did not take part?

A. No, sir; I was attending to my guy. I did not stop work. A couple of men stopped work, and he got brought up to the bunk-house.

Q. How was this lighter made fast, or secured to the wharf?

A. The lighter was secured with lines fore and aft; good lines; good enough to hold.

(Deposition of Sigurd Andersen.)

Q. Fore and aft? A. Yes, sir.

Q. What, if you know, was the manner in which the different [66] lighters were unloaded? Was there more than one lighter there at the time?

A. Yes, sir, there was a lighter in each end; one above the wharf and one below the wharf. They always used to be that way.

Q. After they got one lighter unloaded, what was done with that lighter?

A. They dropped the lighter astern, or ahead and made them fast alongside of the line of piles.

Q. What did they do, if anything, about putting another lighter in position to unload?

A. They slacked another lighter either down or up to the wharf.

Q. Now, state, if you know how the fish were loaded on board of these lighters; how the fish were first put on board before they were unloaded.

A. The fish boats come alongside the boat and the fish is thrown to the lighter.

Q. State whether or not that was done all the season through, or whether any different way was followed at any other part of the season.

A. No, sir; we always throw the fish over to the lighter.

Q. And where were the lighters taken to get the fish?

A. It was laying either alongside of the wharf or above the wharf or below the wharf.

Q. Was the same method followed in the spring and in the fall all of the way through?

A. No, sir; in the spring they had a lighter laying

(Deposition of Sigurd Andersen.)

down in Koggiung; that only lasted for a few days.

Q. What did they do with the lighter down there?

A. The fishermen come alongside of them and discharge fish into the lighter.

Q. Then after the lighter was loaded up, what did they do [67] with her?

A. They towed it up to Branch River, up to the cannery.

Q. How far was that from Branch River, Koggiung, where the lighters were taken?

A. Somebody said 20 or 30 miles; I could not tell you.

Q. Somewhere about 20 or 30 miles?

A. Yes, sir; 20 miles.

Q. When you shipped to go up north, how did you ship?

A. I went up to the Haller office and got the job.

Q. What were the terms that you shipped under?

A. To go up there as a fisherman.

Q. Did you have anything to do?

A. And to take the ship up and down.

Q. You acted as sailor going up and down?

A. Yes, sir.

Q. And after you go up there, how do you fish?

A. We fish two men in each boat.

Q. Two men in each boat? A. Yes, sir.

Q. Did you do any fishing in the boats while you were there? A. Yes, sir, very little though.

Q. Very little?

A. Yes, sir; I was ashore most of the time.

Q. When you worked on shore, what basis would you work on as to compensation?

(Deposition of Sigurd Andersen.)

A. I was working with a winchman up there sorting fish; he was like the beach boss.

Q. Were you paid regular wages for that, or did you get a part of the catch?

A. I was paid the limit.

Q. What do you mean by paid the limit? What does that mean, you were paid the limit?

A. That is the limit which we can fish. The limit is 1,200 fish a day.

Q. That is, you get the same rate of compensation as the highest catch. Is that the idea?

A. Yes, sir, and the highest catch is 1,200 fish.
[68]

Q. At the time that you say Larsen was hurt was the tub then loaded? A. The tub was loaded then.

Q. State whether or not they had started to hoist the tub up at that time.

A. Yes, sir, the tub went up and Peter Larsen he made a quick move.

Q. Where did they take Larsen after the accident, if you know?

A. They took him up to the bunk-house.

Q. About what time of day was it when the accident happened?

A. Oh, I guess, it was about around three or four o'clock in the afternoon.

Q. Were you up to the bunk-house after they took Larsen up there?

A. Yes, sir, I was up there after supper and the time the doctor came there I was there.

Q. About what time did the doctor get there?

A. We had supper; just after supper; around sup-

(Deposition of Sigurd Andersen.)

per-time, about half-past six or seven o'clock in the evening.

Q. Well, now, tell what happened after the doctor came there that day, the day that Larsen got hurt.

A. The doctor he looked at his knee and felt around and made Mr. Larsen move his leg; he could not do it and the doctor he said, "I cannot see anything wrong with your knee whatsoever," and they give him some kind of a liniment to rub on his knee and he told him he would be all right in the morning, and he gave him a couple of pills, and Peter Larsen said, "I am glad to hear it." He said, "I am going to be good in the morning."

Q. Did you see the doctor in the bunk-house again after that? A. Yes, sir, I saw him.

Q. About how long was it after that that you saw him the *the* next time in the bunk-house?

A. Three or four days, or five days, it might be. I could not tell. [69]

Q. Do you remember about what time of the month it was? A. About the middle of July, I guess.

Q. What time was that in the daytime?

A. That is at the last time? After supper-time it was.

Q. Tell what was said or done then as far as you know.

A. He looked at his knee again; he could not find nothing wrong with his knee whatsoever.

Q. What did he say?

A. The doctor he said there was nothing else but laziness with him, "You don't want to work," and the beach boss was there and after he got orders from

(Deposition of Sigurd Andersen.)

the doctor to turn him to.

Q. Just what did the doctor say to the beach boss, as nearly as you can remember?

A. *He* doctor he said, "Maxey, this fellow is lazy; turn him to and give him plenty of work." That is what he said, "And if he don't want to work, why I will go over and tell the old man Haller about him," he said.

Q. Do you live in the bunk-house?

A. Yes, sir.

Q. The same bunk-house where Larsen was?

A. Yes. sir.

Q. How much time did you generally spend in the bunk-house? A. Meal times and at night.

Q. State whether or not you ever saw the doctor in the bunk-house after that.

A. No, sir, I did not see him any more.

Mr. WALL.—I think that is all.

The WITNESS.—That is all I can tell about it.

Cross-examination.

Mr. FREIDENRICH.—Q. You say that you and Larsen were on the lighter at the time that the accident occurred? A. Yes, sir.

Q. Who else was on the lighter?

A. There was all—I don't remember just exactly the men who were on the lighter. There [70] was a couple of fishermen and a couple of beachmen who was working on the beach all the time, beach gang.

Q. About how many men altogether were on the lighter? A. Six or seven men, I guess.

Q. What were you doing at the time?

(Deposition of Sigurd Andersen.)

A. I was attending to the guy.

Q. What was Peter Larsen doing?

A. He was throwing fish up in the tub from the lighter into the tub.

Q. That is the tub was on the lighter?

A. Yes, sir.

Q. And the fish were all around the tub?

A. Yes, sir.

Q. And he was filling the tub with the fish?

A. He and the rest of them.

Q. What methods were employed in doing that? Did they use their hands or anything else?

A. They had something like a pew, a broom handle with a big nail at the end, a bent nail.

Q. What do you call it—a pew? A. Yes, sir.

Q. That was the implement which they had for the purpose of taking the fish from the lighter and putting them in the tub? A. Yes, sir.

Q. And when the tub was filled with the fish what was the next thing that was done?

A. They hoisted them up with steam.

Q. Was there a signal given?

A. The beach boss blew the whistle to the donkeyman who was driving the donkey.

Q. At the time that you say the accident occurred to Peter Larsen how far were you standing from him?

A. He was about in the middle of the lighter and I was on the end. I don't remember how long the lighter is.

Q. And what is the length of the lighter?

A. I could not [71] tell you.

(Deposition of Sigurd Andersen.)

Q. About what is the length?

A. Oh, it is about 50 feet, I guess.

Q. About 50 feet in length? A. Yes, sir.

Q. And how many feet in width?

A. It is about 18 or 20, I guess.

Q. Twenty feet in width? A. Yes, sir.

Q. The tub was in the middle of the lighter?

A. Yes, sir.

Q. And Peter Larsen was standing by the tub?

A. Yes, sir.

Q. And you were at the end of the lighter?

A. Yes, sir.

Q. You were then about 25 feet from him, were you not? A. Yes, sir, about 25 feet.

Q. What, if anything, was there between Peter Larsen and you at that time—was there any obstruction at all?

Mr. WALL.—He probably does not know what obstruction means.

Mr. FREIDENRICH.—Q. Was it all open so that you could see? A. Everything was open.

Q. Everything was open; there was no obstruction, no building on the lighter, no house or anything like that? A. No, sir; everything was open.

Q. Everything was open? A. Yes, sir.

Q. And you stood at the end of the lighter with a guy rope in your hand, did you? A. Yes, sir.

Q. What first attracted you towards Peter Larsen upon that occasion?

A. The first I saw he done was try to turn and twist himself clear of that tub. He tried to get out of the road of the tub.

(Deposition of Sigurd Andersen.)

Q. He tried to get out of the road of the tub?

A. Yes, sir. [72]

Q. Was the tub swinging at the time?

A. Well, sir, we had to swing it in. As soon as they started to swing in the tub the fellow on the guy had to slack the tub in on the stern.

Q. How far from the deck of the lighter was the tub at the time?

A. It might be a foot or a foot and a half.

Q. The tub was about a foot or a foot and a half?

A. It was standing on the fish when they started to hoist it.

Q. The tub was standing on the fish?

A. Yes, sir.

Q. Now, I will ask you how far was the tub from the fish on which it had rested at the time when Peter Larsen tried to get out of its way?

A. Peter Larsen he tried to get out of its way as soon as the tub went up.

Q. He tried to get out of its way as soon as it went up? A. Yes, sir, he did not have no chance.

Q. At that time the tub was how far from the deck of the lighter?

A. It would take a second or two for the tub to go up. It goes up like a shot.

Q. It goes up like a shot?

A. It goes up pretty fast.

Q. It don't take a second then, does it?

A. It goes up pretty fast.

Q. It goes up pretty fast? A. Yes, sir.

Q. Did you see the tub strike Peter Larsen?

A. No, sir, it never struck him.

(Deposition of Sigurd Andersen.)

Q. The tub did not strike Peter Larsen?

A. No, sir.

Q. The tub did not strike him on the knee or on any other part of his body? A. No, sir.

Q. But you say Peter Larsen made a quick move?

A. Yes, sir.

Q. What do you mean by that?

A. Well, he tried to get clear of the tub. [73]

Q. He tried to get clear of the tub and he did get clear of the tub? A. Yes, sir.

Q. How soon after that was it that he complained?

A. Right away. He hollered right away he twisted his knee; that is the first he said.

Q. He twisted his knee?

A. That is what he said.

Q. That is what he said?

A. That is the first he said. "I hurt myself," or "I hurt my knee," or "twisted my knee." I could not exactly say.

Q. What did he say?

Mr. WALL.—He just said that he could not exactly say.

A. I cannot say that; I was standing on the other end of the lighter; I could not say exactly but somebody said, "Pete got hurt."

Q. Somebody said "Pete got hurt"?

A. Yes, sir.

Q. But you did not hear him, referring to Peter Larsen, say anything at all?

A. I guess it was Pete that said that; I am not sure.

Q. You guess. Are you prepared to say that he did say that?

(Deposition of Sigurd Andersen.)

A. That is not for me to say that. I could not say he said it. There were lots of fellows there. Somebody said, "Pete got hurt," if it was him that hol-lered.

Q. You are not prepared to say whether Peter Larsen said he got hurt or not? A. Yes, sir.

Q. I mean at the time that your attention was first called to him?

A. No, sir, I would not say that he said anything so I heard it.

Q. Afterwards when your attention was called to him then what did he say?

A. He said he twisted his knee; "My knee is twisted."

Q. He said he twisted his knee?

A. "My knee is twisted." [74]

Q. He said, "My knee is twisted"?

A. I could not tell you exactly what he said.

Q. You will not be certain what he did say?

A. No, sir.

Q. And you cannot be certain of what he did complain of at that time, can you?

A. Not right away.

Q. And you say this occurred in the afternoon?

A. Yes, sir, between three and four.

Q. What day was it, do you remember?

A. No, sir; I could not remember that.

Q. How many days after you started in to fish did this occur?

A. That is what I could not tell you. I don't remember the date.

Q. You cannot recall even the month, can you?

(Deposition of Sigurd Andersen.)

A. Yes, sir, it was in the month of July.

Q. It was in the month of July?

A. Yes, sir, about the middle of July.

Q. What did Peter Larsen do after complaining that he had been hurt?

A. Some of the boys they helped him to get out of the lighter to get him on the wharf.

Q. How did they manage to get him on the wharf?

A. I don't think they heaved him up; I cannot remember if they heaved him up or not. I guess he managed to get up by the ladder we had alongside.

Q. What is your best impression of that?

A. I will not say; I would not say nothing about it. It might be they took him in a boat and took him on the beach.

Q. You don't remember how they got him from the lighter on to the wharf? A. No, sir.

Q. Whether they hoisted him up, or whether he got up on the ladder, or any other way, you don't know? [75] A. I could not tell you.

Q. State what were the different methods of getting from the lighter to the wharf; one was by being hoisted? A. Hoisting up with steam.

Q. Hoisting up with steam? A. Yes, sir.

Q. And the other way by ladder? A. Yes, sir.

Q. How far below the wharf was the ladder?

A. I don't know; I could not tell you.

Q. At that time, I mean?

A. That is what I could not tell you.

Q. Can't you tell about how many feet?

A. No, sir.

Q. The ladder was not on the level with the wharf?

(Deposition of Sigurd Andersen.)

A. No, sir, it was pretty low water.

Q. Pretty low water? A. Yes, sir.

Q. But you cannot tell how many feet below the wharf the ladder was? A. No, sir.

Q. You cannot tell how high a ladder the ladder was?

A. The ladder was nailed fast to the wharf.

Q. The ladder was nailed to the wharf?

A. Yes, sir.

Q. And you simply went to the end of the lighter and got on the ladder and stepped up?

A. Yes, sir.

Q. And you cannot tell whether Peter Larsen went up that ladder or not?

A. I did not stop work whatsoever to get him up.

Q. You did not stop work?

A. No, sir, two of them did, because two of them stopped work to get him off the lighter and get him up on the wharf.

Q. Did those two come back again on the lighter, or did they take him to the bunk-house?

A. Well, I was not up on the wharf whatsoever.

Q. You were not on the wharf?

A. No, sir. [76]

Q. You don't know how he got to the bunk-house?

A. No, sir.

Q. How far was the bunk-house from the wharf?

A. It was about—that is a pretty good distance from the wharf.

Q. What is the distance?

A. About half a mile, I guess.

Q. From the bunk-house to the wharf?

(Deposition of Sigurd Andersen.)

A. Yes, sir.

Q. How he got to the bunk-house you don't know?

A. I know somebody told—

Q. (Intg.) I don't want to know what anybody told you. How he got to the bunk-house at that time you don't know?

A. I don't; I did not see.

Q. When you talk of a bunk-house, what do you mean by that?

A. Bedrooms, where we sleep.

Q. A room with bunks on the side for the use of the sailors?

A. Yes, sir, one room.

Q. A frame building; a secure frame building?

A. Yes, sir.

Q. Covered?

A. Yes, sir.

Q. Now, you saw Peter Larsen, you say, later that day?

A. Yes, sir.

Q. About six o'clock?

A. Six o'clock; yes.

Q. And you saw the doctor there about half-past six?

A. Yes, sir, about half-past six.

Q. Who else was in the bunk-house at the time the doctor came there?

A. Oh, there was pretty nearly the whole crowd.

Q. The work was stopped for the day?

A. The work was stopped for the day; yes.

Q. Was Peter Larsen in his bunk at that time?

A. No, sir; he was sitting on the bench outside his bunk. [77]

Q. He was sitting on the bench outside of his bunk?

A. Yes, sir.

Q. But inside of the bunk-house?

A. Yes, sir, inside of the bunk-house.

Q. The doctor was examining his leg?

A. Yes, sir.

(Deposition of Sigurd Andersen.)

Q. Which leg, the right or left?

A. Well, I don't remember that either.

Q. You don't remember that? A. No, sir.

Q. His clothes were off, I suppose, were they,
Peter Larsen's?

A. He took his clothes off and the doctor came in.

Q. He took his clothes off and the doctor came in?

A. The doctor told him to take his pants down.

Q. When you were up and saw him at six o'clock
he had his clothes on at that time, did he?

A. Yes, sir.

Q. You don't know whether he made any examination
of his knee before that time or not, do you?

A. He did not. He just came from his office at
that time.

Q. I mean Peter Larsen himself?

A. I don't know because I was working.

Q. Now, the doctor examined his leg and examined
his knee in your presence? A. Yes, sir.

Q. And you, of course, looked at the knee, didn't
you?

A. Yes, sir, they were standing around looking at
his knee.

Q. You were all standing around looking at it?

A. Yes, sir.

Q. And the doctor made some tests, did he?

Mr. WALL.—I do not think he understands what
tests mean.

Mr. FREIDENRICH.—Q. Tell me what the doctor
did besides looking at the leg.

A. He felt all around his knee.

Q. What else?

(Deposition of Sigurd Andersen.)

A. And made him move his leg, but he could not
[78] do it.

Q. He made him move his leg but he could not do it?
A. Just a very little he could move it.

Q. But he could move it some? A. Yes, sir.

Q. Larsen was sitting at the time? A. Yes, sir.

Q. He was not lying in his bunk?

A. The time the doctor was there he was standing on one foot.

Q. He was standing on one foot?

A. That time the doctor had his hand on his knee examining it.

Q. And the doctor said at the time that he could not see anything the matter with him?

A. Yes, sir.

Q. There was no wound apparent as far as you know on the knee was there?

A. No, sir, there was nothing wrong as far as I could see.

Q. Did the doctor give him any medicine?

A. Yes, sir; he rubbed some kind of a liniment on his knee and he gave him a couple of pills and he told him "You will be all right in the morning."

Q. How soon after that was it when Larsen went to his bunk to lie down?

A. Well, that I don't remember. I did not stay there to watch him after that.

Q. I thought you were off duty at that time?

A. I was off duty, but I always used to take a walk around the woods every night.

Q. You did not stay in the bunk-house?

A. No, sir.

(Deposition of Sigurd Andersen.)

Q. Did you see Larsen again that evening?

A. Yes, sir. Then he was lying in his bed.

Q. You saw him in the bunk-house lying in bed?

A. Yes, sir.

Q. And you saw him the next morning?

A. Yes, sir the next [79] morning.

Q. And you saw him the next day?

A. Yes, sir, the next day.

Q. Now, you say the doctor came again in three or four days? A. Three or four days after that.

Q. Were you present at the time?

A. I was there at the time.

Q. What did the doctor do the second time, on this second visit?

A. All he done he felt around his knee, but he could not find anything the matter with his knee whatsoever.

Q. He could not find anything the matter with his knee whatsoever?

A. Yes, sir, he said, "All you need to do is to work."

Q. All you need to do is to go to work, he said?

A. That is all.

Q. Did he give him any medicines the second time?

A. Yes, sir, he did give him another couple of pills.

Q. He gave him more pills? A. That is all.

Q. Did he give him any liniment to rub?

A. No, sir, he did not. That is all he got.

Q. He simply gave him a couple of pills?

A. Yes, sir.

Q. But did not rub his knee with liniment?

A. Not the second time.

(Deposition of Sigurd Andersen.)

Q. At the second time did he tell Larsen to try to move his knee?

A. The same way as the first time.

Q. And Larsen could not move?

A. He could move a little.

Q. Was Larsen in his bunk lying down?

A. No, sir, he was sitting outside of his bunk at the time the doctor came.

Q. Sitting on his bunk with his clothes on?

A. No, sir.

Q. That is he was sitting outside of his bunk inside the bunk-house?

A. Yes, sir, inside the bunk-house. [80]

Q. You say you saw Larsen the day after the accident? A. Yes, sir.

Q. Was he lying in his bunk?

A. Most of the time he was lying in the bunk.

Q. I mean the day after.

A. He was not working and I was working and at meal time he was generally sitting up.

Q. At meal time he was generally sitting up?

A. Yes, sir.

Q. What time did you leave the bunk-house to go to work?

A. We leave the bunk-house in the morning at six o'clock,

Q. Now, when did you again return to the bunk-house during the day?

A. At 12 o'clock, I guess. I don't think we had any meal time before 12. We had coffee time.

Q. That is you would go back to the bunk-house to get your meals?

(Deposition of Sigurd Andersen.)

A. No, sir, we had a dining-room alongside the bunk-house.

Q. So that you would go there to get your meals and you would stop in the bunk-house?

A. Yes, sir. I would stop in the bunk-house and have a smoke.

Q. And you left there after lunch at what time?

A. One o'clock.

Q. And returned for supper at what time?

A. About six o'clock or a little before that.

Q. Now, the day after the accident did you see Larsen before you went to work?

A. Yes, sir, I did see him.

Q. Where was he at that time?

A. He was in the bunk-house.

Q. In his bunk? A. Yes, sir.

Q. Did you see him when you came back for dinner at noon? A. Yes, sir. [81]

Q. Where was he at that time?

A. He was in the bunk-house.

Q. In his bunk?

A. That is what I could not tell you if he was in the bunk.

Q. You don't know if he was in his bunk or whether he was sitting on the bench outside of his bunk? A. No, sir.

Q. Now, in the evening when you returned where did you find Larsen?

A. Well, I find him in the bunk-house again.

Q. Was he in his bunk, or sitting outside of his bunk?

(Deposition of Sigurd Andersen.)

A. I could not tell you. He was not lying down all the time.

Q. He was not lying down?

A. No, sir, he was able to sit up, sit on the bench.

Q. He was able to sit on the bench with his clothes on?

A. Yes, sir, he had made himself a stick so that he could walk over and get his meal.

Q. Now, to get back again to the time of the accident you say that you did not stop work after the accident, you continued right along with your work hoisting the fish to the deck, didn't you?

A. Yes, sir. We finished the lighter. We heaved all the fish up.

Q. And you don't remember hoisting Larsen from the lighter to the deck?

Mr. WALL.—That is only going over what he has *been* already been over thoroughly. He said he could not tell whether Larsen was hoisted up or whether he went up the ladder, or whether he was taken in a boat.

Mr. FREIDENRICH.—Q. You don't recall whether he was hoisted up?

Mr. WALL.—He said he did not. [82]

A. He was not hoisted up.

Mr. FREIDENRICH.—Q. You would certainly know—you now are certain that he was not hoisted up?

A. I said that he could get up two other ways; put him on the boat and pull him on the beach, or take up the ladder.

Q. You are sure now he was not hoisted up?

A. No, sir, he was not hoisted up because they hoisted the tub up. [83]

**[Certificate of U. S. Commissioner to Deposition of
Sigurd Andersen.]**

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

I, Francis Krull, a United States Commissioner for the Northern District of California, do hereby certify that the reason stated for taking the foregoing deposition is that the testimony of the witness, Sigurd Andersen, is material and necessary in the cause in the caption of the said deposition named and that he is bound on a voyage to sea and will be more than one hundred miles from the place of trial at the time of trial.

I further certify that on Wednesday, March 12th, 1913, I was attended by F. R. Wall, Esq., proctor for the libelant, and by D. Freidenrich, Esq., proctor for the libelee, and that the witness was by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in said cause; that said deposition was, pursuant to the stipulation of the proctors for the respective parties hereto, taken in shorthand by Herbert Bennett, and afterwards reduced to typewriting; that the reading over and signing of said deposition of the witness was by the aforesaid stipulation expressly waived.

I do further certify that I have retained the said deposition in my possession for the purpose of de-

livering the same with my own hand to the United States District Court for the Northern District of California, the Court for which the same was taken.

And I further certify that I am not of counsel nor [84] attorney for any of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

IN WITNESS WHEREOF, I have hereunto subscribed my hand at my office in the City and County of San Francisco, State of California, this 28th day of May, 1913.

[Seal] FRANCIS KRULL,
U. S. Commissioner, Northern District of California,
at San Francisco.

[Endorsed]: Filed May 28, 1913. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [85]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Thursday, the 30th day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: the Honorable M. T. DOOLING, District Judge.

No. 15,354.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON COMPANY, a Corporation.

Minutes—Order for Entry of Decree in Favor of Libelant.

The Court this day filed its written opinion and order that a Decree be entered for the sum of \$506.00, and costs in favor of libelant. [86]

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,354.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON CO., a Corporation,
Libelee.

Opinion and Order to Enter Decree for Libelant for the Sum of \$506.00 and Costs.

F. R. WALL, Proctor for Libelant.

D. FREIDENRICH, Proctor for Libelee.

I am satisfied from the evidence herein that the libelee did not furnish libelant with proper medical attention and care after his injury, as the doctor at all times seemed to regard libelant's injury as trifling and libelant himself as a malingerer. It is evident, however, that the injury to libelant's knee was a grave one, which if properly treated at once would not have resulted so seriously. He was compelled after his arrival here to incur an expense of \$86.00 for doctor's fees and \$15.00 for medicines. He was also unable to work for a period of 4½ months

after his discharge from the vessel—during which time he could have earned about \$405.00. If he had received proper treatment at the time of his injury and up to the end of the voyage home, nothing would [87] be allowed him for expenses or losses thereafter.

Under the circumstances, however, a decree will be entered for \$506.00 and costs.

April 30th, 1914.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Apr. 30, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [88]

At a stated term of the United States District Court,
in and for the Northern District of California,
First Division, held at the courtrooms in the
United States Courts and Postoffice Building,
in the City and County of San Francisco, State
of California, on the 2d day of May, 1914.
Present: Honorable M. T. DOOLING, District
Judge.

No. 15,354.

PEDER LARSEN,

Libellant,

vs.

NORTH ALASKA SALMON CO., a Corporation,
Libelee.

Final Decree.

This cause having been heard on the pleadings
and proofs, and having been argued and submitted

by the advocates and proctors for the respective parties, and due deliberation having been had, it is now by the Court Ordered, Adjudged and Decreed that the libelee in said cause, North Alaska Salmon Co., a corporation, pay to the libelant, Peder Larsen, the sum of five hundred and six dollars (\$506.00), together with interest on said sum from the 21st day of December, 1912, the date of the filing of the libel herein, and libelant's cost to be taxed.

M. T. DOOLING,
District Judge.

[Endorsed]: Filed May 2, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [89]

*In the District Court of the United States in and for
the Northern District of California, First Division.*

No. 15,354.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON COMPANY, a Corporation,

Libelee.

Notice of Appeal.

To Peder Larsen, Libelant Herein, to F. R. Hall, Proctor for Libelant, and to W. B. Maling, Clerk of the District Court of the United States, for the Northern District of California, Division I:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE, that North Alaska Salmon Co., a corporation, libelee herein, hereby appeals to the

United States Circuit Court of Appeals for the Ninth Circuit, from the final decree of the District Court of the United States for the Northern District of California, Division I, entered in said cause on the 2d day of May, 1914.

Dated May —, 1914.

D. FREIDENRICH,

Proctor for Libelee. [90]

Due service and receipt of a copy of the within Notice of Appeal is hereby admitted this 11th day of May, 1914.

F. R. WALL,

Proctor for Libellant.

[Endorsed]: Filed May 12, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [91]

In the District Court of the United States in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,354.

PEDER LARSEN,

Libellant,

vs.

NORTH ALASKA SALMON CO., a Corporation,
Libelee.

Assignment of Errors.

Now comes North Alaska Salmon Co., a corporation, libelee herein, and assigns as error in the decision, findings, proceedings and decree of the District Court the following:

1. The District Court erred in finding and de-

ciding that Peder Larsen, libelant, should recover for the cause of action set forth in his libel.

2. The District Court erred in finding and deciding that libelee, North Alaska Salmon Co., did not furnish libelant with proper medical attention and care.

3. The District Court erred in finding and deciding that libelee did not furnish libelant with proper medical attention and care, for the reason that the doctor regarded libelant's injury as trifling and libelant himself as a malingerer.

4. The District Court erred in finding and deciding that the doctor at all times seemed to regard libelant's injury [92] as trifling and libelant himself as a malingerer, and that therefore libelee failed to furnish libelant with proper medical attention and care.

5. The District Court erred in finding and deciding that libelee is liable to libelant upon the cause of action set forth in the libel, because of the fact that the doctor furnished by libelee to attend him did not properly treat him.

6. The District Court erred in awarding damages to libelant in the sum of Five Hundred and Six Dollars (\$506.00).

7. The District Court erred in awarding upon its decree to libelant interest upon the said sum of Five Hundred and Six Dollars (\$506.00), from the 21st day of December, 1912, to the date of the decree.

8. The District Court erred in not finding and deciding that libelee did not neglect to furnish libelant with proper care and attention.

9. The District Court erred in not finding and deciding that libelee did not by the terms of the Articles of Agreement referred to in the libel, agree that libelant should while serving libelee under said Articles receive medical and surgical attendance and medical and surgical necessities.

10. The District Court erred in awarding to libelant any damages whatsoever.

11. The District Court erred in not adjudging that the cause of action set up in the libel is not within the admiralty and maritime jurisdiction of the Court.

12. The District Court erred in not adjudging that the libel herein be dismissed with costs. [93]

Dated San Francisco, May 21st, 1914.

D. FREIDENRICH,

Proctor for Libelee and Appellant.

Received copy of the within notice, this 21st day of May, 1914.

F. R. WALL,

Proctor for Libelant.

[Endorsed]: Filed May 22, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [94]

*In the District Court of the United States in and for
the Northern District of California, First Divi-
sion.*

IN ADMIRALTY—No. 15,354.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON CO., a Corporation,

Libelee.

Bond on Appeal Staying Execution.

KNOW ALL MEN BY THESE PRESENTS:

That we, the North Alaska Salmon Co., a Corporation, as principal, and Fidelity and Deposit Company of Maryland, as surety, are held and firmly bound unto Peder Larsen, the libelant in the above-entitled cause, in the sum of Two Hundred and Fifty Dollars (\$250.00), and in the further sum of One Thousand Dollars (\$1,000.00), to be paid to said Peder Larsen, his heirs, executors, administrators or assigns, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our, and each of our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. Sealed with our seals and dated the 18th day of May, in the year of our Lord One Thousand Nine Hundred and Fourteen.

WHEREAS, North Alaska Salmon Co., a corporation, libelee in the above-entitled cause, has appealed to the United States Circuit Court of Appeals, for the Ninth Circuit, from a decree of the District Court of the United States for the Northern District of California, bearing date the 2d day of May, 1914, in a

suit in [95] which said Peder Larsen is libellant against said North Alaska Salmon Co., a corporation, libelee, which decree orders the said libelee and its stipulators to pay libellant the sum of Five Hundred and Six Dollars (\$506.00), together with interest thereon from December 21, 1912, the date of the filing of the libel and costs.

AND WHEREAS said North Alaska Salmon Co., a corporation, desires, during the process of such appeal, to stay the execution of the said decree of the District Court:

NOW, THEREFORE, the condition of this obligation is such, that, if the above-named appellant, North Alaska Salmon Co., a corporation, shall prosecute said appeal with effect, and pay all costs which may be awarded against it as such appellant, if the appeal is not sustained, and shall abide by and perform whatever decree may be rendered by the United States Circuit Court of Appeals for the Ninth Circuit in this cause, or on the mandate of said Court by the Court below, then this obligation shall be void; otherwise the same shall be and remain in full force and effect.

NORTH ALASKA SALMON CO.,

J. GORMAN,

President.

FIDELITY AND DEPOSIT COMPANY OF
MARYLAND,

By GUY LeROY STEVICK,

Attorney in Fact.

PAUL N. NIPPERT, [Seal]

Agent.

Sealed and delivered and taken and acknowledged this 18th day of May, 1914, before me.

[Seal] JOHN McCALLAN,
Notary Public in and for the City and County of San Francisco, State of California.

This bond approved as to form and amount and sufficiency of surety.

F. R. WALL,
Proctor for Appellee.
WM. C. VAN FLEET,
Judge of Said Court.

Dated San Francisco, Cal., May 19th, 1914. [96]

[Endorsed]: Filed May 19, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [97]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

IN ADMIRALTY—No. 15,354.

PEDER LARSEN,

Libellant,

vs.

NORTH ALASKA SALMON CO., a Corporation,
Libelee.

Stipulation as to Original Exhibit.

IT IS STIPULATED AND AGREED by and between the parties to the above-entitled action that the agreement between libellant and libelee, under which he entered into the employment of libelee, which agreement was introduced in evidence and is marked Libellant's Exhibit 1, may be transmitted in

its original form with the Transcript on Appeal, herein, to the United States Circuit Court of Appeals for the Ninth Circuit, and used on the appeal by either side.

Dated June 18, 1914.

F. R. WALL,
Attorney for Libelant.
D. FREIDENRICH,
Attorney for Libelee.

So ordered.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Jun. 19, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [98]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 15,354.

PEDER LARSEN,

Libelant,

vs.

NORTH ALASKA SALMON COMPANY, a Corporation.

Libelee.

**Stipulation and Order Extending Time (to July 11,
1914) to File Apostles on Appeal.**

IT IS HEREBY STIPULATED AND AGREED
that an order of Court may be made extending the
time for the preparation of the apostles on appeal

in the above case to and including the 11th day of July, 1914.

F. R. WALL,
Proctor for Libelant.
D. FREIDENRICH,
Proctor for Libelee.

Dated June 11th, 1914.
So ordered.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Jun. 11, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [99]

**[Certificate of Clerk U. S. District Court to
Transcript of Record.]**

I, W. B. Maling, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the foregoing and hereunto annexed 99 pages, numbered from 1 to 99, inclusive, with the accompanying exhibit, transmitted under separate cover, contain a full, true and correct transcript of certain records and proceedings as the same now remain on file and of record in the Clerk's Office of said District Court, in the cause entitled *Peder Larsen vs. North Alaska Salmon Company*, a Corporation, and numbered 15,354; and which said Transcript is made up pursuant to and in accordance with "Praeceptum for Apostles on Appeal" (copy of which is embodied in this transcript) and Rule 4 of "Rules in Admiralty" of the United States Circuit Court of Appeals for the Ninth Circuit, as well as the instructions of D. Freidenrich,

Esquire, proctor for respondent and appellant herein.

I further certify that the cost of preparing and certifying the foregoing Apostles on Appeal is the sum of Fifty-four Dollars and Sixty Cents (\$54.60), and that the same has been paid to me by proctor for appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 8th day of July, A. D. 1914.

[Seal]

W. B. MALING,
Clerk.

By Lyle S. Morris,
Deputy Clerk. [100]

[Endorsed]: No. 2445. United States Circuit Court of Appeals for the Ninth Circuit. North Alaska Salmon Company, a Corporation, Appellant, vs. Peder Larsen, Appellee. Apostles. Upon Appeal from the United States District Court for the Northern District of California, First Division.

Received and filed July 10, 1914.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.